



FINAL REPORT

Thematic Review of the Danish Institute for Human Rights (DIHR)

21 September 2009

Contents

Abbreviations	4
Acknowledgements	5
Executive summary	6
1. Objectives, methodology.....	18
2. Context	21
2.1 Transition - pioneer to consolidation	21
2.2 DIHR as a duty-bearer	22
3. Comparative advantages & capacities	27
3.1 Overview.....	27
3.2 Core NHRI role – advising on Denmark’s human rights obligations.....	28
3.3 Core NHRI criteria – independence & public accountability.....	29
3.4 Treaty body recommendations	31
3.5 Holistic Statute	32
3.6 Expertise and capacities	35
4. Priority-setting – geographic, thematic, strategic.....	40
4.1 Geographic focus over the last 2 years	40
4.2 Efforts to apply a regional approach	43
4.3 Thematic focus over the last 2 years.....	46
4.4 Funding related to geographic and thematic priority setting	48
4.5 DIHR consultancies	50
4.6 Findings & recommendations: implications for strategic priority-setting	52
5. Aid effectiveness principles.....	58
5.1 Ownership – state and non-state.....	59
5.2 Alignment	62
5.3 Harmonisation & donor coordination	64
5.4 Mutual accountability and managing for results	66
6. Organisational consolidation.....	76
6.1 Organisational learning – suggested next steps.....	79

Annex I: Terms of Reference 81
Annex IV: Principles of human rights based approaches to development 88

Annex II – Meetings (separate)

Annex III – Documents (separate)

Abbreviations

CAA	Co-operation Application Agreement (annual application by DIHR for draw-down of funds within the MFA Co-operation Agreement)
DIHR	Danish Institute for Human Rights
FNIS	Forces Nationales d'Intervention et de Sécurité, the rural police (Niger)
HR	Human Rights
HRBA	Human Rights Based Approaches
HR&B	Human Rights & Business Department (in DIHR)
HRDs	Human Rights Defenders
M&E	Monitoring & Evaluation
MFA	Ministry for Foreign Affairs (Denmark if not otherwise specified)
NHRI	National Human Rights Institution
PCM	Programme Cycle Management
RBM	Results Based Management

Acknowledgements

The team, led by Karen Kenny (International Human Rights Network, Ireland; with the research support of Hannah Grene, IHRN) and including Charlotte Ørnemark and Rasmus Jørgensen (Nordic Consulting Group), would like to thank first and foremost all the staff at DIHR who generously contributed with their time, personal insights and reflections throughout this process. In particular, the team would like to thank Hans-Otto Sano as DIHR's focal point for the review, and Jonas Christoffersen as Director, for generously making themselves available throughout the process.

The team is also grateful to interviewed staff in MFA for providing documentation, for providing valuable information and insights and engaging in workshop discussions; as well as to those who facilitated or participated in, email surveys (to partners of DIHR, international development partners, Embassy staff).

Regarding field visits, a particular word of thanks is due to the DIHR HQ staff and field colleagues who facilitated the visits in every way to maximise the time available.

Lastly, the team has appreciated DIHR and MFA's approach to the review as a process which does not start or end with the production of this output, but rather that it is seen as a component in the longer term mutual learning process for future collaboration.

Executive summary

“National Human Rights Institutions are recognised globally as critical partners in the protection and promotion of human rights” – Louise Arbour, High Commissioner for Human Rights 2005 ¹

➤ **Context**

Below is a table summarising key findings and recommendations. The key overall finding is that the review has taken place at a time of transition within the Institute’s management and governance structures, on foot of self-identified need for a period of organisational consolidation after a period of rapid expansion, re-structuring and changed management. This transition presents a genuine opportunity to strengthen DIHR’s management structures, systems, procedures, accountability and ability to undertake systematic organisational learning. As such, the review has focussed on the future and applied a process-oriented approach to maximise engagement with DIHR staff and managers and to contribute where possible to processes of change currently underway within the Institute.

The key recommendation of this review is that DIHR should continue to prioritise organisational consolidation by allocating the necessary time and resources to that process - and that it is strongly recommended that it receive the support of MFA in doing so at this key phase in its evolution.

The report addresses the ToR issues grouped under the following headings, each section building on the previous. Having outlined key aspects of the **objectives and methodology (1)** applied in the review the report notes two key aspects of the **(2) review context**: DIHR transition from pioneering to consolidation phase; and its identity as a duty-bearer under international law, setting the parameters for its work as a public body. In addition, DIHR has been recognised as meeting the international criteria for recognition as a National Human Rights Institution (NHRI). This entails in particular: an advisory role regarding Danish human rights obligations; application of international human rights law; independence; and public accountability. Meeting these criteria for NHRI recognition is recognised by the Institute as one of its most important **comparative advantages (3)**, with the status, advocacy opportunity, networking possibilities and obligations that this entails.

In this context, the new phase of consolidation of management structures and systems is expected to equip DIHR to **set priorities (4)** for its international work starting from a position of clear organisational identity and comparative advantage as a public body applying human rights based approaches to its work, and as an NHRI.

DIHR’s contribution to the application of the **Paris aid effectiveness principles (5)** in key areas such as DIHR’s partnership approach and methods is reviewed. This section also considers the importance

of results based management with an organisational M&E system, recommended by previous reviews and a priority for achieving current organisational consolidation.

Complementary use of funding sources is addressed throughout. The benefits of the current phase of **organisational consolidation (6)** are expected to include organisational learning and support systems such as monitoring and evaluation, results-based management (RBM), knowledge management and institutional memory. There is considerable scope for DIHR to prioritise the allocation of its resources more strategically. DIHR has a significant statutory basis that enables it to effectively combine, for example, programming, research, public education, advice to Government and Parliament. The challenge for the Institute is to plan strategically how to optimise resources among the range of intervention options open to it for maximum *implementation* of human rights² at the same time enhancing development assistance in line with the aid effectiveness principles. Such planning will need to be informed by organisation-wide monitoring and evaluating of all its work in light of what human rights impact they achieve – and adjusting based on what it is learning *as an organisation*.

➤ **Overall findings and recommendations**

A brief summary of findings and recommendations is contained in a table at the end of each section of the report. Overall, the review finds overall that DIHR is without doubt an organisation with areas of excellence as outlined throughout the report. However, consolidating and unifying what to some extent might be characterised as ‘islands’ of excellence needs to be a priority for the current change process so that greater consistency of approaches and standards ensue. As part of this process, the review recommends it include the following.

1. Align activities to the DIHR identity as a duty-bearer under international law; as well as to DIHR’s comparative advantages. This should be preceded by an internal process of discussing identity and strategic positioning with staff and governance bodies (who are we, what is our role as NHRI, how do we build internal doctrine & procedures to ensure minimum standards and consistency of identity across all activities, how can we maximise our contribution to human rights change etc.);
2. Critically examining the assumptions underlying the current dominant focus on programmes in its international work in light of the range of intervention methods which are part of its key comparative advantage – its Statute (e.g integrating its advisory role more effectively with programming as well as research, Danish public awareness-raising regarding development issues etc) and its access to national and international level policy influence
3. Critically examine the current portfolio of activities (programmes, consultancies, long-term partnerships and ad hoc activities)
 - in light of that DIHR identity and strategic positioning per thematic area;
 - compare thematic priorities with country and/or regional objectives to maximize the human rights impact in any given geographic area in line with country priorities and international commitments; and
 - draw up criteria and guidelines for taking on new work, and/or phasing out of activities;

6. Identify core activities for implementing the DIHR statutory mandate (domestic and international) and moving to seek review of core funding appropriate to that core role; In addition, examining and streamlining operations to maximize strategic and complementary use of funding sources (MFA cooperation agreement, consultancies, advisory role, other projects) in line with clear geographic and thematic priorities.

The above sequence should not be a one-off, but part of a process of renewal and consolidation that supports the next phase of DIHR. In particular, this on-going process requires a strengthening of key management capacities and systems (s.6). While some of the review findings and recommendations will be reminiscent of previous reviews in 2002 and 2005, DIHR is in a process of transition with new management, new Board, and new departments. MFA is similarly in process of transition with new re-structuring. Given the rapid pace of transition currently in DIHR, and the importance of the process, adequate time is needed for due consideration. It is hoped that the follow-through of DIHR-MFA dialogue process will benefit from the fresh ideas that emerge in such periods of transition and consolidation.

➤ **Table of findings and recommendations**

Key findings – Context - Transition & Identity Context- ToR objective 3	Recommendations
2.1 Transition – pioneer to consolidation	
<ul style="list-style-type: none"> DIHR is currently moving to consolidate its key management systems to address its self-identified needs. Factors contributing to this need include: (a) significant changes in structure and management personnel; (b) a past policy of growth that has out-paced the organisation’s cross-cutting management systems; (c) decision-making delegated to Department, and country-specific, level on matters that should be taken for the <i>organisation as a whole</i>. 	<ul style="list-style-type: none"> DIHR’s process of organisational consolidation is both timely and time-consuming. It is recommended that it be supported by MFA in that process.
2.2 DIHR as a duty-bearer	
<ul style="list-style-type: none"> An example of the above review context is DIHR’s identity as a duty-bearer under international law. This identity is the foundation for the review considering ToR issues of DIHR’s comparative advantages (s.3), priority-setting (s.4), complementarity in working with others (s.5), identifying achieved results etc (s.6). The legal framework provides an array of principles, norms and tools with <i>authority</i> and <i>legitimacy</i> as the basis for DIHR’s work and relationships - a potentially key comparative advantage for DIHR (ToR objective 3). DIHR is currently working on adopting an organisational understanding of what that entails in terms of systems, tools etc to ensure its application. Addressing this will be important at this stage of organisational consolidation so there is a common foundation and quality assurance across all areas of activity from: consultancies, support to partners, through to its advisory role to Danish Government and Parliament. 	<ul style="list-style-type: none"> Central to this consolidation should be enhanced, consistent awareness and application as an organisation (staff, management, governance) of DIHR’s identity as a duty bearer under international law. This <i>identity</i>, combined with DIHR’s various comparative advantages considered in the next section, should be the basis of planning, priority-setting, definition and measurement of success, partnership selection and processes; quality assurance and accountability mechanisms; entry and exit strategies; internal/external capacity-building, and so forth. Organisational systems to ensure compliance with Denmark’s, and the host state’s, obligations – especially effective monitoring and evaluation systems should be central (see s.5.4 and s.6). Staff should be <i>consistently guided to apply, test, learn from and advocate human rights based approaches to their work</i>.
Key findings – comparative advantages & capacities - ToR objective 3	Recommendations
3.1 Overview – nature as an NHRI	
<ul style="list-style-type: none"> DIHR’s nature as a National Human Rights Institution with international work: regarding 	<ul style="list-style-type: none"> There is a need to strengthen organisation-wide cohesion around what DIHR’s key comparative

<p>its key comparative advantage, staff and managers' views vary as to whether DIHR is an NHRI when it operates outside Denmark. However, its nature as a public body remains (s.2); its Statute continues to apply; and the criteria for recognition as an NHRI would be expected to be complied with in all areas of its work.</p>	<p>advantage means in its international work. DIHR should continue to work through what, as an NHRI: (i) DIHR is/is not, (ii) what it does/does not do, and (iii) in terms of methods, what it should/should not apply as methods to most effectively support human rights change.</p> <ul style="list-style-type: none"> • In order to set, and implement, the most effective priorities as outlined in the next section – DIHR should continue to work on enhancing its internal cohesion regarding its identity and comparative advantages. A participatory process internally is recommended to build its vision for how to most effectively draw upon its strengths to stimulate human rights change. • Related to this process, for all activities (tenders, consultancies for MFA, other donors, commercial enterprises etc) minimum substantive conditions as well as minimum M&E should be clarified. This is not only to minimise unintended negative impacts, but also to identify what activities are most effective in stimulating change for replication elsewhere.
<p>3.2 Core NHRI role – advising on Denmark's obligations</p>	
<ul style="list-style-type: none"> • Advising on Denmark's obligations is the central part of DIHR's comparative advantage as an NHRI - giving it a statutory basis for feeding lessons identified from its development work into Danish policy and legislative processes. However, factors such as the range of roles that DIHR has played and lack of clarity as to when DIHR speaks <i>as an organisation</i> – have contributed to a certain amount of confusion and loss of orientation regarding this advisory obligation. 	<ul style="list-style-type: none"> • Deeper, more meaningful, interaction at various levels between DIHR and MFA has the potential to be mutually-reinforcing and should be developed. DIHR's Statutory advisory obligation is a unique comparative advantage. It should be central to its strategic planning: prioritised, pro-active and resourced - for relevant, timely, high quality advice that it monitors for implementation. • The 2009 DIHR-MFA up-dating of the framework arrangement is an opportunity to consider how to better reflect DIHR's unique comparative advantage as an NHRI in its terms. The framework of the relationship is recommended to include not only funding modalities, but scope for a more systematic approach to the relationship as a whole. Examples include a framework for DIHR's advisory input, follow-up at Ministry and Embassy levels; and overarching terms that would be automatically read into each consultancy ToR as they arise reflecting DIHR's identity and status as an NHRI.
<p>3.3 Core NHRI criteria – independence & public accountability</p>	
<ul style="list-style-type: none"> • Maintaining comparative advantage requires meeting the international criteria of: independence and public accountability Limited core funding is an issue raised in terms of DIHR's perceived independence – in the eyes of staff, civil society or peers such as DIIS. Furthermore, there is a gap in public accountability for DIHR's international work. It 	<ul style="list-style-type: none"> • To maintain its comparative advantage as an NHRI: the parameters of '<i>minimum activity</i>' for DIHR's Statutory international activity need to be identified to ensure it has stable and predictable funding to carry it out, independently. Similarly, consideration should be given by DIHR to an appropriate public accountability process regarding its challenges and achievements contributing to human rights

<p>reports to programme funders for some aspects of its international work (not in itself public accountability). The MFA co-operation agreement has some accountability aspects but covers only activities funded through that mechanism – and the mechanisms themselves may not be fully appropriate where an independent NHRI is the counterpart.</p>	<p>internationally.</p>
<p>3.4 Treaty body recommendations</p>	
<ul style="list-style-type: none"> • Treaty body recommendations: A genuine strength for DIHR is its capacity and expertise (in terms of substance and process) to support UPR through its international work. There are several examples from staff interviews where DIHR supported a holistic process: providing technical support to state bodies responsible for reporting to UPR; encouraging inclusive processes with civil society; then drawing on the UPR recommendations in its follow-up work with partners. 	<ul style="list-style-type: none"> • It is recommended that DIHR systematically track its rich experience of advancing implementation of treaty-body recommendations - for identifying lessons at organisational level and integrating them into institutional ‘memory’(s.6).
<p>3.5 Holistic Statute</p>	
<ul style="list-style-type: none"> • Holistic Statute: In considering DIHR’s comparative advantages (<i>ToR objective 3</i>), its holistic Statute is genuinely unique among its peers in international development (advisory role to MFA and others, research, public awareness- etc). • Research: DIHR has identified the potential to reinforce its international work through more systematic integration of applied research such as through its <i>Research Partnership Programme</i>. To date, research cooperation between DIIS and DIHR has been somewhat limited, and joint research may/may not prove fruitful. The institutes share key features such as international focus and research capacity; obligations as public bodies; and statutory independence. There is some current exploration of areas for mutual reinforcement. The significant research capacity and knowledge of foreign policy issues in DIIS, and the significant human rights expertise and access to partners and experts on the ground in DIHR, could be mutually reinforcing for strategic policy influence and advocacy. 	<ul style="list-style-type: none"> • It is recommended that DIHR integrate its statutory roles to maximum comparative advantage in its international work. All aspects of DIHR’s Statute can be mutually reinforcing for enhanced human rights impact: including its high level advisory role in Denmark and with overseas partners; awareness-raising with Danish public regarding structural issues fuelling human rights violations internationally; co-operation with Danish civil society/development actors; etc. • Reflecting this integrated approach, DIHR should continue to build partner national/regional research competence. The potential for greater DIHR-DIIS synergy is broader than joint research - increased knowledge-sharing could be very positive and should continue to be explored and developed (e.g accessing each other’s networks, joint policy/advisory positions).
<p>3.6 Expertise & capacities</p>	
<ul style="list-style-type: none"> • Expertise & capacities: DIHR has built a comparative advantage in <i>process expertise</i> through its experience with partners. This is a <i>significant advance towards applying in practice</i> what many development 	<ul style="list-style-type: none"> • It is recommended that DIHR strengthen its process expertise by ensuring its partnership concept is fully based on human rights approaches (see s.2) and by ensuring it is monitored, evaluated and applied consistently.

<p>organisations are committed to on paper. DIHR has a broad, multi-disciplinary staff whose <i>legal expertise</i> is often commented upon by partners and peers as a comparative advantage – in this respect it stands out among development organisations. There are however gaps in that legal expertise, and in some cases staff are allocated assignments in which they do not feel expert. In some cases DIHR prioritises national/regional experts - but there is a reliance on ‘international’ experts in situations which may not merit it.</p> <ul style="list-style-type: none"> • DIHR’s comparative advantages deriving from its expertise and capacities (process and legal expertise, expert network etc) –require ongoing resource investment to maintain their quality e.g providing high level human rights expertise and analysis 	<ul style="list-style-type: none"> • The recent focus on ‘high-level’ human rights expertise should be systematically tracked for lessons - to identify and assess factors that render this approach feasible in practice, and factors that enable it to have intended effects. • The overdue internal capacity assessment should be conducted, with strengths identified and weaknesses addressed – linked to priority-setting (s.4 below). The assessment might consider the need for a wider base of applied programming skills as well as flexible interchange of people with other organisations (see s.5). • Given the significant merit in prioritising regional experts, or experts from States with similar judicial and administrative systems, it is recommended that a presumption in favour of national/regional experts be scaled up systematically across DIHR.
<p>Key Findings – setting priorities ToR objectives 1 and 2</p>	<p>Recommendations</p>
<p>4.1 Geographic focus</p>	<p>Recommendations</p>
<ul style="list-style-type: none"> • Geographic criteria are too broad to be helpful in priority-setting, with a significant increase in the number of countries of operation within the past 4 years (one funded from the Co-operation Agreement). • Lack of criteria for success as basis for phase out resulting in lack of implemented exit strategies (see also s.5.4 management for results) • The current transition is a factor (with new leadership, new departmental organisation, and new work processes and systems being developed) -but also an opportunity - to strengthen overall cohesion and communication of priorities. 	<ul style="list-style-type: none"> • <i>Develop</i> and <i>apply</i> criteria for geographic priority setting consistent with DIHR’s identity, comparative advantages and overall strategic aims. Include criteria for engaging as well as automatic M&E in partnerships as a planned basis for phasing out. • Enhance M&E to identify and replicate interventions that best contribute to change, so that resources can be more effectively targeted (s.5.4 also).
<p>4.2 Regional focus</p>	<p>Recommendations</p>
<ul style="list-style-type: none"> • Although regional strategies have not been implemented systematically, attempts at an increased regional focus have been made in the past two years (cooperation with regional bodies such as Network of African National Human Rights Institutions (NANHRI); inter-state synergies such as Malawi – Zambia). • These and the West Africa regional strategy suggest an increased regional focus in DIHR activities which may in turn 	<ul style="list-style-type: none"> • Strengthen the identification, adaptation and re-testing of lessons identified from one programme/country/regional context before application in another. Synergies at regional level (and more generally) should be strengthened by organisational learning system - at arms-length from programming recommended in s.6. • Keep strengthening regional competence-bases that can be mutually reinforcing in countries with cultural, linguistic, political or institutional

<p>enhance results at a national level and transferability of lessons.</p>	<p>similarities.</p>
<p>4.3 Thematic focus</p>	
<ul style="list-style-type: none"> • Lack of coherence and inconsistency across strategic documents makes it difficult to identify a clear approach to thematic prioritisation over the past two years. • The new organisational structure introduced in DIHR since April 2008 may help towards a more coherent approach to thematic prioritisation. • The June 2009 Strategic framework is intended to lead to ‘Departmental plans’ with key results-indicators per thematic priority area – as recommended in the 2005 thematic review on Partnership. However, doing so will be a challenge as themes are extremely broad. • While thematic priority-setting is not clear, once active in an area DIHR does evolve specific <i>methods of work</i> that indicate significant strategic approaches (as mentioned in s.3 regarding comparative advantages). For example, DIHR’s practice of working from within state partners – particularly if combined with increased ‘high-level’ focus to influence more system-wide and structural changes. However, DIHR does not systematically harvest lessons and evidence from such experience (M&E) to inform it’s priority-setting. 	<ul style="list-style-type: none"> • Apply an internal participatory process of strategy setting that guides DIHR work over a multi-annual cycle. Examine underlying assumptions regarding what DIHR is and should optimally do (including in light of s.2 and s.3 above). • If thematic priorities are <i>not</i> helpful given the inter-relatedness of the human rights themes DIHR works on, and if its preferred approach is <i>geographical</i> focus combined with strategic <i>methods of work</i> designed for the evolving partner/country context – then it should clearly state this – and plan accordingly. • However, if thematic priorities are set out in strategic documents they should be coherent, applied and supervised organisation-wide. • DIHR should keep enhancing combined regional/thematic thinking e.g. via support to regional bodies. • A more flexible use, and <i>rotation</i>, of activities within MFA Cooperation Agreement funding is recommended to <i>make space</i> to consolidate management systems (s.6) and in the medium term to pilot new areas of intervention. • Making such ‘space’ requires strengthening the lead-in process to partnerships: to ensure shared understanding of objectives so that M&E forms the agreed basis for exit strategies. • It is recommended that DIHR delineate more clearly <i>strategic countries for more in-depth programming- and more strategic policy influence at Danish and international levels</i> (see geographic focus above). • This requires internal review of the current DIHR portfolio – thematically, and geographically (country/regional) informed by strengthened M&E across all activities. This is essential for distinguishing those processes that are in the direction of stimulating change.
<p>4.4 Funding relating to priority-setting</p>	
<ul style="list-style-type: none"> • DIHR benefits from varied and relatively extensive funding lines which suggest support from donor organisations. This should allow it to plan and implement programmes of a scale and duration that optimise the likelihood of impact and sustainability. 	<ul style="list-style-type: none"> • In addition to ‘making space’ for new programmes by planned phase-out, it is recommended that DIHR allocate funds to address management systems in the direction recommended to support genuine strategic priority-setting, to consolidate results based management, M&E as recommended in earlier reviews since 2002. This is key to strengthening the evidence-base for setting priorities in

	existing areas of activity; in new and emerging policy areas; and in laying the groundwork for exit during the start-up phase with potential partners.
4.5 DIHR consultancies	
<ul style="list-style-type: none"> • Consultancies are quite often strategic entry points for what later become programmes. Consultancies can represent an ongoing funding source to promote human rights change as well as an important opportunity for DIHR to systematically influence key donors. • There is however, a risk that such consultancies interfere with priority-setting through <i>ex post facto</i> rationalisation of a particular activity or engagement in a particular country/region. • Issues of conflict of interest need to be addressed in future approaches to consultancies with MFA. • Consultancies are not always adequately vetted, with systematic quality assurance to ensure DIHR can stand over and be accountable for the process, outputs etc. 	<ul style="list-style-type: none"> • A system for managing consultancies is needed at organisational level: one that applies clear criteria, supervises quality, ensures coherence with DIHR’s mandate, and maximizes learning for the overall benefit of the organisation. This includes clearer disclosure, risk analysis, criteria, and conditions for DIHR consultancies with private companies. • DIHR may consider on a more ‘macro’ level input in its Statutory advisory role with MFA regarding overall role of consultancies from a human rights based perspective – as distinct from DIHR as a deliverer of consultancy services. Aggregating such lessons with MFA to include them in an overall Co-operation relationship may be appropriate.
Key findings- Aid Effectiveness Principles ToR Objective 4	Recommendations
5.1 Ownership	
<ul style="list-style-type: none"> • DIHR’s emphasis and commitment to partners’ (both state and non-state) ownership of development processes is high. Other positive factors include DIHR’s interventions being: context-sensitive, using windows of opportunities to seek leverage from ‘within’ institutions (rather than imposing change from the outside). • However, documented baselines and indicators regarding partnership in a number of long-term relationships (Malawi, Niger) were not put in place 10 years ago, so concretely <i>evidencing</i> human rights progress is more of a challenge than it might have been. 	<ul style="list-style-type: none"> • More clarity is recommended regarding the basis and core principles of DIHR approaches to partnership, with systemic lessons identification, including for sharing with others. Harvesting and reflecting on those factors will be important in organisational consolidation: how to manage the fine balance of being fully up to date with the wider donor community’s interests and policies on the one hand, and staying at ‘arm’s length’ from donors, including in order to promote ownership. • Applying human rights based approaches should include respecting partner’s <i>participation</i> in their own development as of right; and the requirement of <i>accountability</i> for impact to rights-holders should include M&E to be planned with partners from the start. It is recommended that DIHR address its evidence gap not least as its key for DIHR vis-à-vis funders who may not appreciate the time that meaningful partnership takes. This highlights the importance of DIHR influencing a wider improvement in aid effectiveness – in order that it can itself apply the insights gained from its work – more consistently
<ul style="list-style-type: none"> • DIHR’s bridging role (including strong process facilitation) between partners and the wider 	<ul style="list-style-type: none"> • The mediating/bridging role should be enhanced by becoming a routine component of DIHR’s

<p>donor community, and/or between partners and their constituency base (individuals, communities) can enhance ownership.</p>	<p>application of human rights-based approaches. A strengthened national and regional competence base could increase DIHR's legitimacy in taking on this role.</p>
<p>5.2 Alignment</p>	
<ul style="list-style-type: none"> • Alignment with strategies and mandates of state and non-state partners is at the heart of DIHR's guiding philosophy of partnership. This approach is central to alignment of development assistance generally. • DIHR programme interventions seek to fit within partners change processes – but not all DIHR partners and programmes are integrated into wider development processes. DIHR capacity to support partners in this could be enhanced. • DIHR's status as a public body and as an NHRI with a clear human rights mandate offers unique advantages in promoting alignment that properly reflects those standards at the heart of the partnership... 	<ul style="list-style-type: none"> • It is recommended that DIHR enhance M&E systems within its partnerships, so it can more systematically promote its partner's own alignment with, and influence on, human rights based national development. • DIHR staff capacity should be built to support partners in this as a routine element of partnership - and to maximise DIHR catalytic role.
<ul style="list-style-type: none"> • DIHR supports partners' systems and strategies to promote alignment with international human rights standards (including working with treaty-body recommendations, non-state actors and the private sector). This is conducive to the principles of alignment. • However, not all DIHR activity is based on partnership. S.4 above referred to the importance of a DIHR policy on consultancies and systems of supervision at organisation-wide level. From an aid effectiveness perspective the guidance should enable DIHR staff to contribute to human rights-based alignment of donor assistance. 	<ul style="list-style-type: none"> • Criteria and guidelines are needed on how to balance the DIHR approach of working from within organisations and institutions, with ensuring greater external accountability for actual contributions to human rights impact. As mentioned in s.4 regarding exit strategies, both criteria, and M&E to apply such criteria, should be applied to identify if a partnership veers off international rights standards. Explicit mention of <i>DIHR's own obligations under international law, and as an NHRI</i>, in project documents and in partnership agreements – would also reflect its own need for enhanced results based management. • Also recommended is a systematic approach to alignment across <i>all DIHR activities</i>, including consultancies.
<p>5.3 Harmonisation & donor co-ordination ToR objectives 4.3 and 3.1</p>	
<ul style="list-style-type: none"> • More collectively effective aid assistance through greater harmonisation and coordination is a challenge for all development actors. A number of features of DIHR's activities contribute to this collective effort. With human rights based approaches to development, as the shared framework for DIHR, its partners, MFA, other bi-lateral and multi-lateral actors - the universality and legitimacy of the human rights framework is a clear aide to harmonisation of DIHR's contribution to development assistance. 	<ul style="list-style-type: none"> • DIHR should play an important role in promoting harmonised development assistance that is in line with human rights norms in a particular country context, or in a particular thematic area. DIHR's partnership approach, once strengthened, is a key opportunity for this and for realisation of the aid effectiveness principles generally. Where needed, DIHR empowerment of partners should enhance understanding among, and demand by, its partners that human rights norms be respected through harmonised donor action. DIHR should ensure staff are themselves empowered to do this.

<ul style="list-style-type: none"> • DIHR works in close collaboration with a range of development partners (bilateral and multilateral) and is often appreciated for playing a ‘bridging role’. However, where DIHR practices differ from others, it has not always been clear in seeking to influence others—through research, publications, or policy advice. • DIHR’s strongest opportunity to contribute to greater harmonisation, coordination and complementarity of aid assistance is by helping build the in-country demand that such principles be respected. It can do this by building upon the strength of its partnership approach. • Co-ordination with MFA seems to work well, and a more systematic approach to its Statutory advisory role should help optimize the potential for mutual reinforcement in policy dialogue with MFA and other donors (see s.3 comparative advantage). 	<ul style="list-style-type: none"> • Influencing other international and development actors should be a key strategic objective of DIHR to reflect the strength of its ‘bridge’ role; and to reflect its significant scope for aggregating lessons for advocacy at the international level (e.g disseminating knowledge generated by DIHR’s M&E system regarding what is shown to <i>work in policy briefs</i>). This recommendation is illustrated using a hypothetical pilot process of DIHR convening ‘fact-based dialogue’ in Burkina Faso to advance the application of aid effectiveness principles.
5.4 Managing for results & mutual accountability	
<ul style="list-style-type: none"> • For DIHR, there are two main aspects: how does DIHR itself understand accountability and apply it in its activities; and secondly, how does it build the capacity of state partners to play their role in accountable development, and demand mutual accountability in turn, from their wider development partners. • Individual DIHR ‘projects’ have varying levels of M&E in place, most of which are well developed, but organisation-wide there is a need for a pro-active and systematic approach to learning from experience. • Misperceptions among staff e.g that the long-term nature- and partnership approach itself- ‘prevents’ DIHR from a more active role in monitoring its contributions to human rights change. • It is not safe for any actor to assume, for example, that enhanced ‘capacity’ of justice sector institutions automatically yields positive human rights outcomes. Institution-led, top-down approaches by partners can contribute to a more efficient justice sector – in which greater throughput results in forced “confessions” by police, judges incentivised to strike out cases improperly, or increase their rates of unfair conviction etc. 	<ul style="list-style-type: none"> • There is scope to refine and reinforce DIHR’s obligation of accountability through more effective M&E of its own contributions. This enhancement of capacity needs to address both results relating to process of its development interventions and their human rights impact. • As recommended by previous Thematic Reviews, DIHR should implement a more rigorous results-based management system to track activities in its sphere of control and sphere of influence. DIHR should empower staff regarding RBM and more clearly target and monitor its short and medium-term contributions to desired impacts. • For DIHR partnership, human rights based accountability by definition should encompass the strengthening of partner’s domestic accountability mechanisms – between duty bearers and rights holders. This should mean that DIHR works with partners from the outset to plan and design M&E to stay accountable to the human rights standards they jointly are working to achieve.

<ul style="list-style-type: none"> Strengthening M&E and accountability are central to enhancing DIHR's position when demonstrating to partners and donors that processes take time but that they give proven results. 	
<ul style="list-style-type: none"> Various existing research and guidelines on M&E systems developed by DIHR have been successfully used in programme-level training with partners, but systemic Results Based Management and M&E systems to measure this has not yet been realised within DIHR. There are a range of straightforward tools to help DIHR and its partners refine these processes, at various levels – including tools that properly reflect the central importance of relationships and processes as key results in human rights based development (e.g outcome mapping, most significant change, etc.). 	<ul style="list-style-type: none"> Central to achieving organisational consolidation, DIHR should develop and apply RBM systems & M&E tools and indicators that (i) reflect its organisational identity, Statutory mandate, NHRI status and strategic objectives (geographic and thematic), (ii) that help measure gradual shifts of human rights progress /regression over time, and (iii) measure DIHR's specific contributions towards such change. DIHR needs to invest significantly more than hitherto to strengthen its own results-based management (RBM) systems at organisational level to ensure: (i) that it is doing <i>the right things</i>; and (ii) that it is doing <i>those things right</i>. <i>A clear locus of top-level responsibility</i> for doing so is a starting point, along with allocated resources (see s.6)
<p>s.6 Key Findings – Organisational consolidation</p>	<p>Recommendations</p>
<p>6.1 Organisational consolidation</p>	
<ul style="list-style-type: none"> It is understood that increased support to strengthening core management systems is to be prioritised by DIHR in its CAA application under the framework agreement. This is likely to enhance a range of issues including more effective choice and application of strategic priorities. 	<ul style="list-style-type: none"> Resources in terms of funding and personnel are essential to ensure the current transition phase successfully harvests the best of DIHR's 'pioneering' stage, to enable it move towards establishing an on-going process of organisation learning.
<p>6.2 Organisational learning – suggested next steps</p>	
<ul style="list-style-type: none"> The extensive knowledge and expertise of individuals and teams within DIHR is evident from interviews of staff and partners. This has not been optimally translated into a codified, organisational learning system – that encourages and facilitates questioning of assumptions, policies, and practices. 	<ul style="list-style-type: none"> Ongoing strengthening of core management functions needs to include a clear locus of responsibility for proactive fostering questioning and learning as part of priority setting, RBM, and M&E based on consistent application of its core identity and comparative advantage.

1. Objectives & methodology

1.1 Background

This Thematic Review takes place as part of the MFA-DIHR multi-annual co-operation agreement in support of the DIHR's international programmes. Reviews are commissioned at intervals of four years, and intended to form the basis of the following multi-annual framework dialogue between MFA and DIHR.

The Institute works to promote the fulfillment of human rights in relation to a wide range of target groups and institutions, including parliaments, the civil service, courts, research institutions, educational systems, national human rights institutions, NGOs, intergovernmental organizations and the business community, nationally and at global level.

The major part of activities carried out by DIHR is financed by MFA (approx. 63% approx.) 30 % from the annual grant and 33 % from individual contracts with MFA departments and embassies. The amounts allocated under the Framework Agreements have remained constant during the last three years, while DIHR has obtained increased funding from other external sources, other donors, EU, and research funding. Since 1997 a cooperation agreement with MFA has been the basis for its work specified in a rolling 4 years plan. The purpose emphasized in the original agreement was to strengthen Danish efforts to promote and protect human rights and democratization, and to create closer ties between MFA and the Institute. The latest revision of the agreement took place in January 2006. The cooperation is guided by regular meetings between MFA and DIHR where issues raised during recent years have included the need for thematic and geographical focusing of activities, further development of indicators and strengthened management for results.

In the on-going dialogue with the Institute, it has been decided to carry out a review during spring and summer 2009 to follow up on the discussions on focusing activities, developing indicators and documenting results in the international development work etc. There has also been a desire to look specifically at the Institute's interventions and activities in view of aid effectiveness principles. The conclusions and recommendations from this thematic review will provide an input to the presentation for the Danida Board of the annual grant for DIHR in autumn 2009 and for the revision of the cooperation agreement between MFA and DIHR regarding activities relevant for Danish development cooperation.

1.2 Objectives

Objectives of the review: *Overall objective: to further optimize the efforts carried out by DIHR to promote and protect human rights in developing countries.*³

The immediate objectives of the thematic review are to:

- 1) Analyse and assess efforts by DIHR to achieve a further thematic and geographic focusing of activities financed by funds from MFA including assessment of the relationship between geographic and thematic focusing.
- 2) Analyse and assess efforts carried out to apply a regional approach.
- 3) Analyse and assess comparative advantages, capacities and achieved results of DIHR in the areas chosen as strategic priorities (freedoms and participation; access to justice and equal treatment; the rule of law; human rights and business).
- 4) Analyse and assess how DIHR applies the aid effectiveness principles on alignment, harmonization, ownership, donor coordination and management by results in activities in developing countries.
- 5) On the basis of the findings and assessments provide targeted recommendations with a view to optimize efforts carried out by DIHR to promote and protect human rights in developing countries.

The terms of reference are in **annex I**.

1.3 Methodology

A number of aspects of the ToR were clarified pre-contract, and at inception stage.⁴ The assignment is a review, as distinct from an evaluation. In this context, the ToR includes the immediate objective of analysing '*achieved results*'; and the scope of the review includes identifying the main '*outcomes obtained*' at national and regional levels. The review was not itself to gather primary data regarding programme outcomes etc (other than staff interviews) to answer such questions.⁵ A cataloguing of outputs and outcomes from specific programmes was understood to be beyond the scope of this review. The focus was rather on the extent to which partner and other feedback are built into **monitoring and evaluation systems in place at programme, country, or institutional, levels**. Thus, for the purposes of the review, the team was to work on the basis that a DIHR M&E system is in place and that it provides evidence of such results and outcomes, so that they can be analysed. That system is considered in s.5.4.

The report of the Thematic Review is prepared by the team on the basis of **non-attribution** of views. **Participation/circulation of draft:** due to limitations of time and scope, feedback will not be sought on the full draft report from partners and other stakeholders. DIHR has plans for specific issues emerging from the review to be discussed more widely with staff in follow-up to the review.

The current management of DIHR is identifying areas where internal decision-making processes and systems require strengthening. As one manager put it: "*this review is taking place while the house cleaning is underway*". For example, revised DIHR Departmental strategy documents, with up-dated indicators, are currently being planned, but will be available only after the review. The review therefore sought to be **process-oriented** by seeking to contribute where possible to an ongoing internal, self-identified, change process. As **emergent issues** were identified, the review team raised them with DIHR management as early as possible. Such a process is a time-intensive methodology for both DIHR and the team, and both have been as flexible as possible to link the review process to the parallel processes of institutional strengthening now underway.

Review of documentation was a central aspect and DIHR and MFA were invited by the team to be pro-active in providing documents to the review team that they feel is relevant to the broad ToR.

Individual Interviews, both direct and by telephone, helped develop the team's understanding of the various elements of the ToR as well as planning and following up on field visits. Meetings are listed in **annex 2**.

Internal DIHR workshops: An internal DIHR workshop was facilitated by the review team on 15 May with all DIHR staff invited. The review team appreciated the positive and frank discussion and the active participation of senior managers including the Director throughout. An additional workshop was held by DIHR and MFA with the team to discuss the direction of preliminary findings during 17 & 18 August and invite reflection and input regarding the shape of recommendations.

Field visits and additional country desk studies: Two field visits to three countries were proposed by DIHR and carried out to Cambodia and West Africa (Niger and Burkina Faso). In addition, to provide a wider analytical base, the review team proposed desk study of three additional countries: Afghanistan, Vietnam, and Malawi.⁶

Questionnaires by email – 6 countries: To supplement information available from three field visits and three country desk studies and to expand the evidence base for the review findings, input from key stakeholders in three desk study countries was also invited by means of short email questionnaires. These brief surveys covered aspects of the ToR most relevant to the specific stakeholder, tailored to their country context and to DIHR's role in each country.⁷

2. Context

This section outlines two key aspects of the context in which this review takes place. The first is DIHR's current transition process regarding self-identified areas which require organisational consolidation. A number of these are issues also addressed in this report.

The second key contextual aspect for the review is the nature of DIHR as an organisation and the law applicable to its work. Clarity regarding a number of the ToR issues requires clarity of identity as the starting point for DIHR (internally within the organization and externally vis-à-vis partners and others). This identity underpins issues covered in the Terms of Reference ranging from **comparative advantages (s.3)**, **priority-setting (s.4)**, **complementarity in working with others (s.5)** and **identifying achieved results etc (s.6)**.

2.1 Transition - pioneer to consolidation

The *Danish Centre for Human Rights* was created in 1987 by Parliamentary resolution which states that the Centre shall be an independent institution within the field of human rights. By Act of Parliament, in 2002 the Centre was merged with four other institutions under the aegis of the *Danish Centre for International Studies and Human Rights* (DCISM). What is now called *Danish Institute for Human Rights* (DIHR) constitutes one of two independent pillars under the Danish Centre for International Studies and Human Rights.

This review takes place in a context of DIHR currently moving to consolidate its key management systems to address a self-identified need. Three contributory factors underlie this need: a) significant changes in structure and management personnel; b) a past policy of growth that has out-paced the organisation's cross-cutting management systems; c) decision-making on matters that should be *organisation-wide* made by Department, programme, country-specific, or individual level.

a) DIHR has been through a process of change in recent years:

- merging administration with the Danish Institute for International Studies (DIIS) under DCISM
- rapid growth of international activities & staffing since its inception based on a policy of seeking such growth, accompanied by delegation of more responsibility to programme-level where people were encouraged to show initiative
- discontinuity of management personnel, procedures, structures

In 2008-09 the process of change continues, including:

- newly constituted Board; actively reviewing its role
- new Director
- new Deputy Director to be appointed with domestic and international responsibility (advertised August 2009)
- re-structuring of Departments to merge domestic and international focus
- revised Departments (e.g. introduced Education Unit and Equal Treatment and Diversity Department)
- other new senior management (e.g. new Head of Administration as of May 09)

b) Policy of seeking growth: DIHR has hitherto applied a policy of expanding its international programmes - and it has achieved significant success in that policy, currently having some 100 staff. Staff describe this in interviews as reflecting the “pioneering stage” of the organisation, rapid expansion being achieved by management encouraging staff initiative (*‘throwing the ball’* to staff and *‘asking them to run with it’*). DIHR has developed a broad range of avenues for international work – from own-initiative programmes of technical assistance supporting partners; to staff tendering for/being approached to provide consulting services for MFA, other development partners; commercial companies etc. Hitherto, some DIHR activities overlap with those of Danish or international NGOs, consulting firms, UN agencies etc. The activities actually undertaken have clustered around relatively specific methodologies – prioritising technical assistance and programming, with greater emphasis underway for a more integrated approach to research support to that process and more integrated HR&B into strategic plans for the organisation as a whole.

c) This expanded international role has resulted in a considerable international reputation for DIHR. However, the organisation’s management systems have not evolved in line with the expansion. The transition has involved temporary organisation-wide management arrangements for some months, reinforcing the tendency for much decision-making to be delegated to Department, individual or programme-level. Decision-making that focuses appropriately on country context (see s.5 Ownership) is important, but must be *overseen* by decision-making based upon the *organisation’s* context, i.e how activities relate to the organisation’s identity, strategy, priorities etc. In this context, it is not surprising, that while staff show considerable initiative, it has resulted in activities that exhibit varying, sometimes contradictory, positions or methodologies.

Thus, interviews with staff which raised their understandings/perceptions in terms of an overview of DIHR found fundamental contradictions from interviewees working in different parts of the organisation concerning issues such as ‘partnership’, ‘impact’, ‘human rights based approaches’, ‘what is a National Human Rights Institution’ etc. Similarly, approaches to relations with Danish embassies varied by individual and team and in some cases country teams have developed their own formats for documents which in principle should be organisation-based (see s2.2 and s. 5).⁸

One of the weaknesses we have at DIHR is that so many people are working solo on different projects, strategies etc. - and one person can simply not analyse, see or do everything.

- DIHR staff member email

This fragmentation underlies the challenge of maintaining coherence and cohesion particularly in relation to DIHR’s identity as a duty-bearer, and as an National Human Rights Institution (NHRI), outlined in the sections below (s.2.2 and s.3). Strengthening coherence and cohesion in these areas is a strategic priority identified by DIHR in terms of its range of roles.

2.2 DIHR as a duty-bearer

As Danish public bodies, MFA and DIHR share the same legal framework flowing from the international legal commitments which Denmark has undertaken.⁹ This framework provides an array of principles, norms and tools with *legal authority* and *legitimacy* – as the basis for DIHR’s work and relationships. This framework forms a potentially key comparative advantage for DIHR.

Addressing the review questions has identified existing strengths and areas for attention by DIHR to ensure consistent, coherent application of its core identity as a duty-bearer under international law.

Hitherto, DIHR the organisation, has not adopted a common understanding of human rights based approaches as the basis for its work. There is a spectrum of individual approaches, not all of which are well-informed.¹⁰

Opening Statement of Mr. Sergio Vieira de Mello, High Commissioner for Human Rights. Second Inter-Agency Workshop on Implementing a Human Rights-based Approach in the Context of UN 2003

“A human rights-based approach – bringing human rights standards and values to the core of everything we do – offers the best prospect of leveraging our influence to empower people to advance their own claims, to prevent discrimination and marginalization, and to bridge the accountability deficits that have chronically crippled development progress. Under a rights-based approach, participation in development is a matter of right rather than charity. Essential to the very definition of human rights is the existence of claims and corresponding obligations at various levels of government and society. In each situation we confront, a rights-based approach requires us to ask:

- *What is the content of the right?*
- *Who are the human rights claim-holders?*
- *Who are the corresponding duty-bearers?*
- *Are claim-holders and duty-bearers able to claim their rights and fulfill their responsibilities?*

- If not, how can we help them to do so?

This is the heart of a human rights-based approach.”

The principles of law underpinning human rights approaches to development are routinely clustered in different ways for ease of comprehension and application by different groups (e.g according to their mandate, country context, and status as rights holder/duty-bearer on the issue). In much the same way ‘human rights’ is taught in a myriad of different ways depending on whether the target group is school children, legal professionals, Ministry officials etc. The former High Commissioner for Human Rights emphasized, *context analysis* and *creativity* as hallmarks of the myriad approaches to development based on human rights – the key question being: ‘*how can we help*’ claims –holders and duty-bearers to claim their rights and fulfill their responsibilities.¹¹

What does not vary, *by definition*, is the legal nature of human rights standards, and obligation of Denmark to ensure all its public bodies respect the treaty commitments it has undertaken – including in its development co-operation.¹²

Key features of this legal framework are summarized in **Table 1** annex IV for ease of reference.¹³ Their application is briefly illustrated by the Committee on Economic Social and Cultural Rights. In 2005, the Committee asked Norway for information on measures taken to *ensure compliance* with Covenant obligations in its international development cooperation.¹⁴ In 2008, it recommended that Sweden *ensure* that the principles of equality, non-discrimination, participation and accountability are *integrated in the design and implementation of programmes and policies*.¹⁵

It is recommended that DIHR strengthen the *consistency of understanding and application* of principles of human rights based development across DIHR’s work. Maintaining organisational systems to ensure compliance with Denmark’s, and the host state’s, obligations – especially effective monitoring and evaluation systems should be central (see s.5.4 and s.6).

Addressing this will be important at this stage of organisational consolidation so there is a common foundation and quality assurance across all areas of activity from: consultancies, support to partners, through to its advisory role to Danish Government and Parliament. Systematically addressing mis-perceptions in this area is important for DIHR's own work, as well as for the advice it provides others.

The June 2009 strategic framework states that DIHR "applies a human rights based approach to projects" and is working on adopting an organisational understanding of what that entails in terms of systems, tools etc to ensure its application. From this *identity*, this strategic development combined with DIHR's various comparative advantages should be the basis of planning, priority-setting, definition and measurement of success, partnership selection and processes; quality assurance and accountability mechanisms; entry and exit strategies; internal/external capacity-building, and so forth.

The ready foundation for strengthening this *consistency of understanding and application* is illustrated by examples from the West Africa context in the text bow below, where DIHR is engaged in key work.

Other examples of what is needed to apply HRBA principles are mentioned in later sections where they arise. For example, quality assurance systems premised on legal accuracy (s.6); and organisation-level M&E so that accountability helps stimulate human rights change (s.5.4).

West Africa examples– towards human rights based approaches

Principle 1: Expressly and accurately using the HR law applicable

- **Strengths:** Strong processes with partners. Ownership of the Strategic Plan in the Ministry of Human Rights (Burkina Faso) said to be strengthened by taking outset in *the Ministry's* mandate based on human rights
- **Weakness:** would be enhanced by taking outset in *common* obligations to human rights framework – to which both DIHR and partners are accountable for facilitating change (see principle 5), and agree mechanisms at the start. Otherwise, can inadvertently disempower partners by not expecting them to meet their obligations.¹⁶

Principle 2: Elements of - empowerment

- **Strengths:** Inclusion of relevant state and non-state actors together discussing human rights promotes participation, ownership and dialogue.¹⁷ More of this needed e.g with Ministry in Burkina.¹⁸
- Positive acknowledgement that these processes take time, and resources.
- Key to achievements in West Africa is the DIHR Unit's willingness to learn, and to support others in learning to do better in stimulating human rights change.
- **Weakness:** Just as it does with UPR process - DIHR should build its own capacity to empower partners on legal and policy demand e.g. by Ministry for Human Rights in Burkina, and civil society for meaningful participation in EU country strategies, UNDAFs, Poverty Reduction Strategies.¹⁹
- Maximise DIHR entry points to promote understanding and application of HRBA (bi-lateral & international policy-making levels, in-country in support of partners, see s.5 aid effectiveness principles).

Principle 3: Elements of - participation as a right

- **Strengths:** Long term involvement over 10 years. In Niger, a stable team, regular visits help generate trust with partners obligations of donors to ensure positive human rights impacts of their work (EU, UN, bilateral); to strengthen
- Emphasis on coaching partners to produce outputs themselves is much respected by partners and many feel real ownership - not only regarding manuals, training, a resource centre or a strategic plan but also ownership of processes and financial responsibility. In contrast, with a different funder, a Judges manual facilitated by DIHR under shorter timeline than needed. In the short-term, lower quality process and outputs, illustrates the benefits of influencing the way other funders approach development as a strategic priority (s.5).
- **Weakness:** participation in projects can inadvertently be presented to partners as a unique DIHR speciality which partners should appreciate – instead of a *right* which they should expect and demand from all their development partners (and a *duty* for which DIHR is accountable)

Principle 4: Prioritising vulnerable groups and non-discrimination

- **Strengths:** Strategic focus by DIHR West Africa on family law – rightly targeting vulnerability of many West African women and their children.

Principle 5: Elements of - accountability

- **Strengths- learning:** processes to develop two manuals with two police services (Police; and the separate Forces Nationales d'Intervention et de Sécurité, the rural police) illustrate the express, accurate application of key international standards, participation and empowerment of partners. FNIS was the second manual process in Niger and learned significantly from the Police manual process e.g by including from the start an accountability mechanism for evaluation of the manual's impact; as well as user group feedback on clarity of text etc. The result is an excellent FNIS manual, with high-level commitment to apply it within FNIS

organisation, and a core team of FNIS with understanding of, and pride in, their role as human rights defenders.

- *Weakness to address:* focus on impact should be automatic in planning partnerships. DIHR should integrate HR results, outcome, impact baselines, indicators and monitoring processes with partners – as a key element of their mutual obligation of accountability for HR impact – from the start.

Key findings – Context - Transition & Identity Context- ToR objective 3	Recommendations
2.1 Transition – pioneer to consolidation	
<ul style="list-style-type: none"> • DIHR is currently moving to consolidate its key management systems to address its self-identified needs. Factors contributing to this need include: (a) significant changes in structure and management personnel; (b) a past policy of growth that has out-paced the organisation’s cross-cutting management systems; (c) decision-making delegated to Department, and country-specific, level on matters that should be taken for the <i>organisation as a whole</i>. 	<ul style="list-style-type: none"> • DIHR’s process of organisational consolidation is both timely and time-consuming. It is recommended that it be supported by MFA in that process.
2.2 DIHR as a duty-bearer	
<ul style="list-style-type: none"> • An example of the above review context is DIHR’s identity as a duty-bearer under international law. • This identity is the foundation for the review considering ToR issues of DIHR’s comparative advantages (s.3), priority-setting (s.4), complementarity in working with others (s.5), identifying achieved results etc (s.6). • The legal framework provides an array of principles, norms and tools with <i>authority</i> and <i>legitimacy</i> as the basis for DIHR’s work and relationships - a potentially key comparative advantage for DIHR (ToR objective 3). DIHR is currently working on adopting an <i>organisational understanding</i> of what that entails in terms of systems, tools etc to ensure its application. • Addressing this will be important at this stage of organisational consolidation so there is a common foundation and quality assurance across all areas of activity from: consultancies, support to partners, through to its advisory role to Danish Government and Parliament. 	<ul style="list-style-type: none"> • Central to this consolidation should be enhanced, consistent awareness and application as an organisation (staff, management, governance) of DIHR’s identity as a duty bearer under international law. • This <i>identity</i>, combined with DIHR’s various comparative advantages considered in the next section, should be the basis of planning, priority-setting, definition and measurement of success, partnership selection and processes; quality assurance and accountability mechanisms; entry and exit strategies; internal/external capacity-building, and so forth. • Organisational systems to ensure compliance with Denmark’s, and the host state’s, obligations – especially effective monitoring and evaluation systems should be central (see s.5.4 and s.6). • Staff should be <i>consistently guided to apply, test, learn from and advocate human rights based approaches to their work</i>.

3. Comparative advantages & capacities

The review is asked to analyse and assess DIHR's comparative advantages and capacities (ToR objective 3).²⁰

This section examines DIHR comparative advantages including how these are perceived by Institute personnel; as well as by partners and peers who contributed to the review. Perceptions of comparative advantage were gathered from individual interviews, documents and surveys as well as at an internal inception-phase workshop with DIHR staff.²¹ The focus in this section is on the comparative advantage most commonly mentioned and one that distinguishes DIHR from an array of other development actors – DIHR's status as a National Human Rights Institution (NHRI). How DIHR utilises this status in its international work, *perceptions* (internal and external) and *practice* are considered; followed by consideration of its *capacities* to fulfil that role.

Recognition as an NHRI is a system of international accreditation that DIHR has *opted into* – as such it is treated separately from its public body identity above in s.2.

Related comparative advantages addressed in this section concern its wide and inclusive Statutory mandate, its legal expertise; its approaches to partnership and flowing from these the global network of human rights actors that DIHR has established.

3.1 Overview

The recognition of DIHR as an NHRI by the international accreditation body (most recently in 2006) is a key comparative advantage for DIHR, which it recognises in its 2009 Strategic Framework. Internationally recognised criteria for NHRIs cover: the law applicable (requiring promotion & protection of international human rights); independence; accountability; as well as typical roles in public education, promoting treaty ratification and research.²² This section includes DIHR's position regarding research, especially in relation to **complementarity with DIIS**.

The June 2009 DIHR Strategic Framework is clear that *“The vision of the Institute for the next four years is—through a process of consolidation and development—to emerge as a leading National Human Rights Institution on the global human rights scene”*. This vision is well-founded, as DIHR is regarded as an important leader in international NHRI advocacy.²³ DIHR staff identify key aspects of their work as flowing from recognition as an NHRI: its 'convenor' role facilitating processes of inclusion of state and non-state actors; and capacity to work with public authorities.²⁴

While the majority view expressed in interviews/workshops is that DIHR is an NHRI in its international work, others suggest that perhaps DIHR is *not* an NHRI when it operates outside Denmark (see s.2.1).²⁵ There is a need to strengthen *organisation-wide cohesion* around what this key comparative advantage means.

The criteria for accreditation as an NHRI are set out in the Paris Principles, and DIHR is scheduled for consideration again in 2011. The key criteria for maintaining this comparative advantage are: independence (including complete financial autonomy); accountability, the international standards applicable (see s.2 above).

DIHR Statute (extract)

Within the objective of the Danish Centre for International Studies and Human Rights, of: “strengthening research, analysis and information activities in Denmark relating to international matters, these being understood as the areas of foreign affairs, security and development policy, conflict, holocaust, genocide and politically motivated mass killings, as well as human rights at home and abroad”²⁶ - DIHR shall:

- 1) Carry out an independent and autonomous Danish research effort in the area of human rights.
- 2) Advise Parliament and the government on Denmark’s obligations in the area of human rights.
- 3) Conduct and promote education at all levels in relation to human rights, including public information.
- 8) Promote the coordination between and assisting the volunteer organisations’ work in the area of human rights.
- 9) Support and strengthen Nordic and other international cooperation in the area of human rights.
- 10) Contribute to the implementation of human rights domestically as well as internationally.

3.2 Core NHRI role – advising on Denmark’s human rights obligations

DIHR’s Statute provides in point 2 that it shall ‘Advise Parliament and the government on Denmark’s obligations in the area of human rights’. This is a core role of an NHRI - without this provision, DIHR’s other roles of research, and public education etc would in themselves be unlikely to meet the test for an NHRI. As such, this advisory mandate is the central part of DIHR’s comparative advantage - giving it a statutory basis for feeding lessons identified from its development work into Danish policy making and legislative processes.

Since 1997, the cooperation agreement with MFA has operated on a rolling 4 years plan, with annual applications by DIHR for draw-down of funds. The purpose emphasised in the original agreement was to strengthen the Danish effort to promote and protect human rights and democratization, and to create closer ties between MFA and DIHR. In practice, interviews with MFA, DIHR and partners, suggest that the range of roles that DIHR has played has contributed to a certain amount of confusion and loss of orientation regarding this independent advisory role.²⁷ For example, the DIHR advisory function for MFA is not specifically referred to in its draft Strategic Framework, and there is no reference to it being a priority, resourced or systematically followed-through to track implementation of its recommendations to ‘Danish government or Parliament’.²⁸

Overseas, interaction with Embassies is not systematised or premised on the exercise of its Statutory advisory function. It appears to take place mainly as ‘information-sharing’ and varying according to the initiative of individual staff (both DIHR and MFA). In Copenhagen, DIHR comments on MFA draft policies on much the same basis as NGOs. There is no doubt influence through such various exchanges, but this does not seem to be *pro-active* or *systematically tracked* by DIHR in exercise of its Statutory mandate.

Another possible factor affecting the exercise of its advisory role is that it is not always clear when staff are expressing views as individuals – and when views are being expressed as DIHR in its statutory advisory role. It speaks as DIHR when it inputs in writing into MFA policy drafting processes. However, a range of publications and other documents are couched as expressing individual views – even on issues of core DIHR doctrine, bearing DIHR logo etc – such as its publication on its approaches to partnership.²⁹ A related factor, raised in discussions, is the varying individual

interpretations of *what the appropriate relationship with MFA* should be. For some DIHR staff, Embassies should be arms length; for others it is important to share information for policy influence.

In interviews with MFA, the potential to reinforce this advisory role by more systematic, relevant, timely, high quality advice was welcomed. Considerable scope remains for deeper, more meaningful, interaction at various levels between DIHR and MFA. This should be developed at all levels.³⁰

For DIHR, it needs to be explicit in advising in exercise of its Statutory function – it may be received in a more specific manner by MFA, considered in a specific process – with views fed back to DIHR regarding implementation etc. Recent literature identifies this as an element of effectiveness of NHRIs “*Monitoring government compliance with their advice and recommendations. Monitoring should become a consistent practice*”.³¹

For DIHR and MFA to systematise this advisory role, key international criteria for maintaining NHRI recognition must be taken into account. Agreed by states in a General Assembly resolution³², they set out the conditions needed to ensure bodies like DIHR are enabled to provide such advice effectively – and independently. Clarity of communication on this with MFA can generate mutual reinforcement of efforts, while ensuring respect for DIHR independence (see next sub-section).

3.3 Core NHRI criteria – independence & public accountability

In this sub-section, key criteria for recognition of NHRIs (independence & public accountability) are outlined. These criteria apply to all aspects of DIHR’s work as an NHRI, not just that undertaken under the Co-operation agreement – such as when a) carrying out consultancies for any donor or commercial company; b) acting as a technical advisor in partnerships; or c) advising the Government.

As with *identity*, ensuring respect for these *criteria* is a starting point for any NHRI as part of identifying comparative advantages (**ToR objective 3**) or setting *priorities* (**ToR objectives 1 & 2**, considered in the section which follows).

➤ ***Independence- complete financial autonomy***

Independence, both as a matter of law and practice, as guaranteed in DIHR’s Statute, is an essential element of recognition as an NHRI. There are various elements that make for independence, with a typical test being: is an NHRI in a position to provide advice that may be unpalatable (in this case in relation to Denmark’s foreign policy).

The ICC accreditation process requires that “...*Financial systems should be such that the NHRI has complete financial autonomy*.”³³ Some 15% of DIHR’s funding is allocated from the national budget; most of the remainder is funds from MFA (see s.4 funding box). This low percentage of ‘core funding’ was mentioned to DIHR as an issue by the ICC in its last accreditation process. DIHR staff have creatively diversified its funding base to some extent in the last years. However, from interviews within and outside DIHR, funding is raised as an issue in terms of DIHR’s perceived independence from MFA – in the eyes of staff, civil society, or peers such as DIIS (see below). Clearly it is of benefit to DIHR’s own strategic planning to be informed by dialogue with MFA. However, DIHR needs to have robust planning processes that independently assess the merits of different views – in order that both it, and MFA, are clear as to its operational independence.³⁴

In practice, issues can arise where there are differences in priorities with MFA. In the DIHR-MFA dialogue 2005, it was noted that under the then existing framework contract, allocation of funds to public education in Denmark was to be excluded by MFA. Yet, under its Statute DIHR shall “conduct

and promote education at all levels in relation to human rights, including public information.” It is open to DIHR to fund such activities from other funding. However, the challenge of DIHR retaining its independence, real and perceived, remains.

➤ **Independence - “minimum activity” budget**

The ICC accreditation process usually deals with NHRIs whose sole mandate is domestic. In the case of DIHR, its mandate is indivisible as between its domestic and international functions, its Statute presents no hierarchy. The state must ensure that DIHR has “*its minimum activity budget in order to allow it to operate towards fulfilling its mandate*” with funding that is adequate and predictable.³⁵ Working out the parameters of that ‘minimum activity’ in terms of DIHR’s Statutory obligation to contribute to ‘implementation’ of human rights internationally needs to be addressed.

Beyond core funding for Statutory activities, DIHR prioritises additional activities and seeks additional funding for its international work. In this ‘additional’ area DIHR would expect to ‘compete’ for public funds on equal footing with other development actors such as UN agencies, EC, Danish or international NGOs i.e on the basis of proven performance in stimulating human rights based development. In all funding processes, its core identity requires DIHR to ensure respect for its human rights obligations as well as ensuring respect for the criteria governing its recognition as an NHRI. Here, one example may be mentioned. The Co-operation Agreement could be more clear by stating that it is to be *in line with DIHR’s Statute*, reflecting the DIHR obligation as an NHRI as reflected in its Statute, to apply international human rights law.³⁶

In sum, in applying independence in its daily work DIHR stands at the intersection of government and civil society. It needs to “*define and delimit the space it occupies in relation to other institutions that protect human rights*”, within and outside government: “*To operate well, NHRIs need to be truly independent of the executive and other institutions of government...but they must have access to and influence within those institutions*”.³⁷

➤ **Public accountability**

The comparative advantage of having the status of an NHRI is central to DIHR’s work such as its ‘bridging role’ and its strong *process approach* to partnership. To ensure this recognition as an NHRI - public accountability arises concerning DIHR’s international work.

As is routine in development, reporting to funders takes place at programme/project level - to the increasing range of DIHR programme funders. Those reporting routines are administratively time-consuming for managers and programme staff. However, such reporting does not cover the full range of DIHR activities (as consultant to MFA, other donors, or commercial clients, or in its research) and this reporting is not, of itself, public accountability as required by the NHRI criteria for recognition.³⁸

In addition to the above reporting to funders, the relationship with MFA involves co-operation agreement dialogues; the Danida Board considering DIHR’s annual applications; and a review every four years. It appears to be the only mechanism at organisational-level, even though it generally only focuses on the Co-operation agreement – a sub-set of its international activities.

The co-operation agreement arrangement appears appropriate to address MFA’s own obligation to demonstrate its accountability for public funds. However, it may not be fully adequate as an accountability mechanism *where an NHRI is the counterpart*. As an NHRI, DIHR needs to be publicly accountable for all aspects of its work - through mechanisms that also protect its independence³⁹

Reporting to Parliament, the norm for NHRIs, was raised with DIHR by the international accreditation body in 2006. While it does not as such report to Parliament, DIHR publishes an annual report on

human rights in Denmark.⁴⁰ There is no equivalent mechanism for DIHR to report on human rights in Denmark's external relations or its own international activities.

DIHR has self-identified the scope for Statutory governance structures (DIHR Board and Council) to be re-energised as part of its consolidation process.⁴¹ DIHR is led by an Institute Board, "*which is responsible for all matters relating to substance and professional issues, including research strategy and tasks*" falling within the 10 points specified in the Statute for DIHR. As part of this reflection process, pro-active consideration could be given to a comprehensive, appropriate accountability process for all of DIHR's work, domestic and international.

A recommendation of the 2005 Thematic Review of DIHR's method of working in partnerships⁴² was to set up a *Partner Forum* or *Advisory Council* made up of partner representatives. This was considered by the Board and not implemented due to concerns about unclear roles vis-a-vis Statutory governance bodies. However, perhaps there is an element that could be explored for enhancing public accountability of DIHR's international work. For example, partners, peers in the area of international human rights work, or other key informants could be invited by the Board to participate in a yearly public forum, and to aid the Board's reflections on DIHR's work.

Accountability processes more generally should also be part of the day-to-day methods of work of an NHRI (s.6). For DIHR, transparency and access to information are cross-cutting issues which it aims to promote "*Transparency is a key component of the Institute's credibility, and this will be further developed and implemented during the strategy period...*"⁴³

As part of its current reflection process DIHR may consider being pro-active in exploring how to strengthen its public accountability mechanisms for its international work in the lead-up to its 2011 NHRI re-accreditation process. This is an opportunity to design a process that itself strengthens its comparative advantage - building public awareness and influence on the international aspects of its work. Notably, recent research concerning the effectiveness of NHRIs suggests that accountability should mean not only reporting in full on all activities annually, but *regular consultations with all stakeholders*.⁴⁴ Features of such a process:

- a) Public accountability for stimulating human rights change – not just for funding or for activity. In doing so, it strengthens its independence as an NHRI
- b) Covers all DIHR work in a unified way (domestic- international);
- c) Enhances openness to learning from its rich experience - highlighting challenges as well as achievements

3.4 Treaty body recommendations

To what extent does DIHR support the implementation of recommendations emanating from the international system (ToR objective 3.3)

In the international accreditation criteria, NHRIs are specifically encouraged to work to increase ratifications of international human rights treaties by states, and to be pro-active in supporting state treaty reporting processes.⁴⁵ A genuine strength for DIHR is its capacity and expertise (in terms of substance and process) to support UPR through its international work.

DIHR routinely supports the international human rights reporting processes e.g by providing technical assistance to state report preparation (Afghanistan, Yemen, Serbia); or to NGOs preparing

alternative reports (Belarus, Niger, Turkey, Kyrgyzstan). There are several examples where DIHR supported a holistic process: providing technical support to state bodies responsible for reporting to UPR; encouraging inclusive processes with civil society; then drawing on the UPR recommendations in its follow-up work with partners (e.g Afghanistan).

The extent to which DIHR interventions contribute to the *implementation* of recommendations emanating from international human rights reporting systems is identifiable through examples in staff in discussion. These include Turkey where treaty body recommendations addressed accountability of security forces, ratification of the Optional Protocol of the Convention against Torture and dialogue with civil society. Similarly, Rwanda, where treaty body recommendations addressed fair trials for genocide victims and suspects.

Furthermore, Vietnam is an example where gradual trust building with state authorities by DIHR over a number of years has helped open up space to work with police on issues such as the death penalty, pre-trial detention, and Convention against Torture standards - even though Vietnam is not yet a party to that treaty. This work, in combination with information exchange between DIHR and its funding partners (in this case Swiss Development Co-operation) contributed to political dialogue with state authorities. Becoming a party to CAT is now reported to be a top priority of the Vietnamese government's Steering Board on Human Rights.⁴⁶

The richness of this organisational experience in advancing treaty-body recommendations would be important to systematically track at organisational level - for integration into institutional 'memory'(s.6).

3.5 Holistic Statute

DIHR has a broad, Statute-based mandate, as needed also for NHRI recognition.⁴⁷

DIHR is obliged by Statute to work on 'implementation' of human rights internationally - without restriction or prescribed hierarchy of methods or entry levels (see s.4). In considering DIHR's comparative advantages, its holistic Statute is genuinely unique among its peers in international development. What is the advantage of this broad scope? It would tend to reinforce DIHR scope for creativity. DIHR has access to entry points as a matter of law - that others must propose or request (e.g DIHR obligation to advise Danish government and Parliament on their human rights obligations). Integrating such statutory advice, research, public awareness-raising etc should be a significant comparative advantage open to DIHR in designing strategic interventions.

➤ **Research – and complementarity with DIIS**

The ToRs request the review to assess: **what are the opportunities for increased cooperation and strengthening of synergies between DIHR and DIIS, in particular in regard to work carried out on fragile states and situations**⁴⁸ (*TORs, objective 3.4*)

NHRIs typically are mandated to carry out some combination of monitoring, investigating, analysing, and researching of human rights with a view to advising the state, providing recommendations etc. In the case of DIHR, its Statute provides that it shall "*carry out an independent and autonomous Danish research effort in the area of human rights.*" This is interpreted to mean research in a specific academic sense within the Institute with the term 'analyst' used in-house for such staff when they carry out 'applied' research. In practice, this has been interpreted to include hosting PhD students

and academic researchers. This hosting is intended to be part of a clear research strategy which the DIHR Board is responsible for under the DIHR Statute, being “*responsible for all matters relating to substance and professional issues, including research strategy.*”

An excellent example of a strategic approach to research cooperation with partners from Africa, applied a regional and thematic approach and invited guest researchers to Denmark. This has given visiting researchers a chance to network and to pursue common interests and is said to have resulted in a general strengthening of the quality of their research projects. This *Research Partnership Programme* was particularly strategic in focussing on researchers from West Africa for 2007 and 2008 –linked to the development of DIHR’s West Africa strategy. By supporting researchers from the region, the strategy has been able to subsequently draw in their enhanced skills when implementing the regional strategy (see West Africa text box s.2). DIHR has identified the potential to reinforce its international work through more systematic integration of applied research in ways such as these. Thus, since 2007, the programme aims to build human rights research capacity in DIHR partner countries by providing methodological training and other support to research. It has a rotating regional and thematic focus in line with the strategic direction of building strong regional ‘competence bases’ for DIHR work (see s.4).

Linked to its advisory role, there is considerable scope for DIHR to be more pro-active in influencing MFA policy and practice. To achieve this, the principles recommended for *Organisational Learning* include drawing in internal and external research and analysis (s.6). Such research has an important role to encourage the questioning of underlying assumptions. For example, DIHR analyst reports on the political context of Niger and Afghanistan raised the key issue of the need to ensure that DIHR activities did not reduce human rights to a *technical approach* divorced from its context of power relationships.⁴⁹ What is recommended in this review is a clear learning process with identified authority and responsibility to enhance and follow up on such internally-generated, and external, questions.

To date, research cooperation between DIIS and DIHR, has been somewhat limited. Both institutions share key features such as international focus and research capacity; shared obligations as public bodies; and statutory independence. They were created under the same Statute to strengthen “*research, analysis and information activities in Denmark relating to international matters*”. However, interviews point to be a number of stumbling blocks to *joint research*, including perceived differences in mandate, profiles and priorities and thematic foci. DIHR emphasises its need for timely and actionable information on particular topics, which is not seen as shared by DIIS; as well as a mutually perceived need to avoid a ‘forced marriage’. From the DIIS side perceptions include DIHR’s research department being seen as small, underfinanced with few legal experts, as well as too closely linked to MFA due to its reliance on project funding.⁵⁰

Efforts to increase informal interactions between staff of the two institutions have been initiated through a common intranet-platform. Other potential avenues for closer collaboration which have been considered by DIHR include a more extensive involvement of DIIS researchers as specialists and advisers. Increased knowledge-sharing between the two institutions could be very positive and it is recommended that it continue to be explored and developed. The significant research capacity and knowledge of foreign policy issues in DIIS, and the significant human rights expertise and access to partners and experts on the ground in DIHR, could be mutually reinforcing for strategic policy influence and advocacy.

In this context, potential exists not only for strengthening research, but other strategic cooperation between these two institutions to enhance combined policy influence vis-à-vis for example MFA. More generally, this cooperation might also include others from the wide range of Danish actors from Universities, think-tanks etc who carry out relevant research.

➤ **Towards a more strategic policy collaboration between DIIS and DIHR**

A comparative advantage of DIHR, compared to DIIS, is its access to partnerships and experts on the ground, essential for designing and accessing primary data and contextual insights. An example of this is DIHR's current 'informal justice' study commissioned by three UN agencies. The research draws on the significant Institute legal expertise in areas of access to justice – and combines it with access to primary data through DIHR's network of peers and partners. Such complementarities could be further mapped out and applied in future collaboration and may be of particular relevance in fast changing contexts such as fragile states (*ToRs objective 3.4*).

Increased focus on involving national researchers from DIHR countries of operations, and building this national/regional expertise, is a very positive development within DIHR, as exemplified in the *Research Partnership Programme* above. Joint DIHR-DIIS research may or may not prove fruitful – and should not in any event displace a DIHR focus on building national/regional research competence as part of a more integrated approach to its Statutory functions. However, the potential for greater DIHR-DIIS synergy is broader than joint research, extending to continuous informal and structured information sharing, accessing each other's networks, joint policy/advisory positions in relation to Danish foreign policy, etc.

➤ **Holistic application of Statute**

DIHR is working to enhance the integration of applied research into its programmes – and vice versa. It is also seeking to integrate its other functions more effectively to reinforce its international role such as its Statutory obligation of '*public information*'. A key element of NHRI impact, identified by international research, is *legitimacy based on a public constituency that understands and values its work*.⁵¹ Public awareness of the work carried out in the name of the Danish public - its identity, comparative advantages and ultimately of the difference it can help catalyse – is part of strengthening DIHR legitimacy, accountability and advisory role.

In the same direction, the NHRI criteria encourage cooperation with civil society in Denmark and DIHR has a Statutory role to promote such co-ordination.⁵² Currently, DIHR is exploring how best to re-energise relationships with this sector, such as with the NGO Development Forum. The DIHR 'convenor role' in the domestic context can reinforce its international work, and create a multiplier effect by pooling best-practice and lessons identified, e.g regarding partnership.

The potential for mutual reinforcement among the 10 points of DIHR's Statutory obligations, in the service of its overall international strategy is high. The multiplier effect offered by various combinations of its statutory obligations should be the foundation of its strategic planning and priority-setting (see next section). Its various roles for human rights influence in its Statute and in its programming – should be a genuine comparative advantage of DIHR, which sets it apart from the array of development actors. This combination, with its MFA relationship, should establish Denmark's leadership in human rights based development.

3.6 Expertise and capacities

➤ *Partnership processes*

DIHR has developed an approach to many of its project and programmes that is based on a partnership process. In principle, the essence is longer-term engagement with the priorities, pace, methods etc *led by* partners, state or non-state. While the stated prototype partnership with the *Malawi Human Rights Resource Centre* is described as being “characterised by a common human rights vision”, in practice, the interpretation and application of this vision varies by individual DIHR staff member and by partner.⁵³ Nonetheless, the focus and importance given to the *process* and to the *relationship* are consistently emphasised. This experience of applying such a partnership process is at the heart of human rights based approach to development. It can be strengthened, measured and applied more consistently,⁵⁴ but it is nonetheless a *significant advance towards applying in practice* what many development organisations are committed to on paper. In the case of DIHR it is a comparative advantage that is operationalised and that permeates many aspects of this review.

➤ *High level, and legal, expertise*

DIHR has since 2007 identified the importance of a focus on provision of highly specialised and relevant human rights expertise – as distinct from institution-building which can be equally well carried out by others. This is the direction of a recommendation of the 2005 Partnership review, and can be seen as an aspect of DIHR steps towards strategic focus considered in s.4⁵⁵

Hitherto, DIHR utilized funds from the MFA cooperation agreement not only to provide partners with technical advice on human rights issues, but also to assist institution building. This was particularly so with long-term partnerships in Malawi, Rwanda and Niger. From 2007 a focus on high level expertise is said to be reflected in some strands of DIHR’s international work (set out in CAA and related programme documents):

- Programmes to assist judges, police, prosecutors with knowledge on human rights standards
- Legal Aid work looks at skills development, monitoring, and QA.
- Civil society programmes emphasize professional and analysis-based advocacy
- University support programmes concentrate on transnational thematic research networks

By “high level”, is meant:

- a) seniority of state partner-liaison (such as Ministry level, or Council of Ministers as in Cambodia; or Office of the President in the case of Malawi); while also combining this with support to civil society; as well as
- b) in terms of ‘specialisation’ of expertise; and ‘seniority’ of the advisor sent by DIHR. Senior international experts are drawn on, from inside DIHR as well as from outside.⁵⁶

A mix of both (a) and (b) is being applied in a number of cases, such as in Niger or China. Access to high level entry-point in state partner organisations is a potentially key comparative advantage for DIHR, a key basis for high level advocacy premised upon mutual legal obligations, as outlined in s.2.

In some cases, the distinction between substantive human right advice and institution-building is not easy to maintain in practice e.g support to strategic plan of Ministry for Human Rights Burkina Faso appears to require both. An enhanced focus on human rights expertise may be a positive focus on

comparative advantage – but will need to be matched with capacity-building by others where that is identified as needed.

The above examples of ‘high-level’ approach should be systematically tracked for lessons - to identify and assess factors that render this approach feasible in practice, and factors that enable it to have intended effects.

More generally, DIHR has a broad, multi-disciplinary staff whose *legal expertise* is often commented upon by partners and peers as a comparative advantage – in this respect it stands out among development organisations. However, in interviews there are stakeholders who suggest DIHR does not have enough specialist legal expertise, and gaps in expertise emerged in the review (s.2). This apparent contradiction may be in part explained by interviews with staff – some of whom expressed discomfort with needing to apply broader/different expertise than they felt they had, i.e. to be generalists rather than specialists in specific areas of law or specific geographical contexts. Another factor is the need for systematic quality assurance, which should help ensure consistently high standards that DIHR would set for itself (s.6).

In the transition phase, the Education Unit (soon to be Department) is focusing on assessing internal staff capacities and designing processes to support staff learning. Capacity assessment for the organisation appears to be somewhat overdue.⁵⁷ This is particularly important as a support for enhanced strategic focus addressed in the next section, particularly in light of the tendency to identify new areas of intervention - without necessarily tying this to existing staff capacities.⁵⁸

➤ **More programming skills, more evidence-based**

The 2008 Strategic Plan for DIHR international partnership programmes makes reference to its ability to access resources such as “*theoretical knowledge, methodology development, and practical experience*”. When it comes to more applied programming skills, interviews suggest that the breadth and levels of knowledge and experience are not as evident.

It is suggested by some stakeholders that DIHR’s work would benefit from being less theoretical and more evidence-based. It was also observed in some of the activities reviewed, and some partners feedback referring to DIHR advisors as ‘*great theorists*’ and ‘*strategic thinkers*’ but who need to *get out more into the field and provinces*’ in order to enhance more practical implementation of plans and processes (particularly noted in relation to DIHR support to the implementation of ‘model courts’ in Cambodia).

In Vietnam, activities also take place largely in the capital with technical capacity-building in academic institutions. While the operating environment is limited, further collaboration and information exchange could be explored with those who work in the provinces (e.g. CARE Denmark, Oxfam, and others working on issues around land and water use in the Mekong Delta and in the remote areas populated by ethnic minorities).

In this direction, the new (2009-2012) DIHR strategic framework suggests a significant shift “...to enact programmes of progressive, locally accepted and sustainable human rights achievement”. Thus, in order to stay ‘contextually relevant’ as partnerships and processes evolve over time, DIHR may need to broaden its advisors’ skills-base, its evidence-base and more systematically pool lessons identified from different spheres of programming activity.

A factor behind this observation is the extensive use of foreign advisors and experts to support national dialogue processes and provide advisory services to partners. A review of all recent partnership and short-term consultancy contracts issued by DIHR for Vietnam – a country where the

Institute has been actively engaged since 1997 – supports the finding that a large share of in-country support functions undertaken by DIHR are carried out by external (foreign) experts on short-term contracts. It is also questionable why Danish nationals (even if based in Vietnam) rather than competent national experts provide logistical and coordination support.⁵⁹ In addition to issues of sustainability, it raises concerns around cost effectiveness and best use of in-house DIHR staff.⁶⁰

Although some issues of particular sensitivity may need to be catalysed by external experts, there is significant merit in prioritising regional experts, or experts from States with similar judicial and administrative systems, as mentioned in relation to regional approaches in the next section. This is increasingly applied by the West Africa Unit – and it is recommended that a presumption in favour of national/regional experts should be scaled up systematically across DIHR.⁶¹

This is linked to another comparative advantage which DIHR has built - its global network of partners, peers and experts. In reality this is a very rich DIHR capacity resource that it draws on for some aspects of its work. However, in the medium-term it merits resources to systematise those contacts and plan ways to strengthen DIHR’s and partners work with that global pool. This comparative advantage should be nurtured and harvested systematically to reinforce all aspects of DIHR’s work – from feedback on its programmes, drawing in ‘fresh eyes’ to take part in commissioned internal reviews as part of its organisational learning; or to combine with colleagues for specific advocacy/advisory roles etc.

As will be seen in the next section regarding priority setting, it seems clear that DIHR needs enhanced expertise in some substantive areas and skills, as well as flexible inter-change of people and ideas with other organisations.⁶²

<i>Key findings – comparative advantages & capacities - ToR objective 3</i>	<i>Recommendations</i>
3.1 Overview – nature as an NHRI	
<ul style="list-style-type: none"> DIHR’s nature as a National Human Rights Institution with international work: regarding its key comparative advantage, staff and managers’ views vary as to whether DIHR is an NHRI when it operates outside Denmark. However, its nature as a public body remains (s.2); its Statute continues to apply; and the criteria for recognition as an NHRI would be expected to be complied with in all areas of its work. 	<ul style="list-style-type: none"> There is a need to strengthen organisation-wide cohesion around what DIHR’s key comparative advantage means in its international work. DIHR should continue to work through what, as an NHRI: (i) DIHR is/is not, (ii) what it does/does not do, and (iii) in terms of methods, what it should/should not apply as methods to most effectively support human rights change. In order to set, and implement, the most effective priorities as outlined in the next section – DIHR should continue to work on enhancing its internal cohesion regarding its identity and comparative advantages. A participatory process internally is recommended to build its vision for how to most effectively draw upon its strengths to stimulate human rights change. Related to this process, for all activities (tenders, consultancies for MFA, other donors, commercial enterprises etc) minimum substantive conditions as well as minimum M&E should be clarified. This is not only to minimise unintended negative impacts, but also to identify what activities are most effective in stimulating change for

	replication elsewhere.
3.2 Core NHRI role – advising on Denmark’s obligations	
<ul style="list-style-type: none"> • Advising on Denmark’s obligations is the central part of DIHR’s comparative advantage as an NHRI - giving it a statutory basis for feeding lessons identified from its development work into Danish policy and legislative processes. However, factors such as the range of roles that DIHR has played and lack of clarity as to when DIHR speaks <i>as an organisation</i> – have contributed to a certain amount of confusion and loss of orientation regarding this advisory obligation. 	<ul style="list-style-type: none"> • Deeper, more meaningful, interaction at various levels between DIHR and MFA has the potential to be mutually-reinforcing and should be developed. DIHR’s Statutory advisory obligation is a unique comparative advantage. It should be central to its strategic planning: prioritised, pro-active and resourced - for relevant, timely, high quality advice that it monitors for implementation. • The 2009 DIHR-MFA up-dating of the framework arrangement is an opportunity to consider how to better reflect DIHR’s unique comparative advantage as an NHRI in its terms. The framework of the relationship is recommended to include not only funding modalities, but scope for a more systematic approach to the relationship as a whole. Examples include a framework for DIHR’s advisory input, follow-up at Ministry and Embassy levels; and over-arching terms that would be automatically read into each consultancy ToR as they arise reflecting DIHR’s identity and status as an NHRI.
3.3 Core NHRI criteria – independence & public accountability	
<ul style="list-style-type: none"> • Maintaining comparative advantage requires meeting the international criteria of: independence and public accountability Limited core funding is an issue raised in terms of DIHR’s perceived independence – in the eyes of staff, civil society or peers such as DIIS. Furthermore, there is a gap in public accountability for DIHR’s international work. It reports to programme funders for some aspects of its international work (not in itself public accountability). The MFA co-operation agreement has some accountability aspects but covers only activities funded through that mechanism – and the mechanisms themselves may not be fully appropriate where an independent NHRI is the counterpart. 	<ul style="list-style-type: none"> • To maintain its comparative advantage as an NHRI: the parameters of ‘<i>minimum activity</i>’ for DIHR’s Statutory international activity need to be identified to ensure it has stable and predictable funding to carry it out, independently. Similarly, consideration should be given by DIHR to an appropriate public accountability process regarding its challenges and achievements contributing to human rights internationally.
3.4 Treaty body recommendations	
<ul style="list-style-type: none"> • Treaty body recommendations: A genuine strength for DIHR is its capacity and expertise (in terms of substance and process) to support UPR through its international work. There are several examples from staff interviews where DIHR supported a holistic process: providing technical support to state bodies responsible for reporting to UPR; encouraging inclusive processes with civil society; then drawing on the UPR recommendations in its follow-up work with 	<ul style="list-style-type: none"> • It is recommended that DIHR systematically track its rich experience of advancing implementation of treaty-body recommendations - for identifying lessons at organisational level and integrating them into institutional ‘memory’(s.6).

<p>partners.</p>	
3.5 Holistic Statute	
<ul style="list-style-type: none"> • Holistic Statute: In considering DIHR’s comparative advantages (<i>ToR objective 3</i>), its holistic Statute is genuinely unique among its peers in international development (advisory role to MFA and others, research, public awareness- etc). • Research: DIHR has identified the potential to reinforce its international work through more systematic integration of applied research such as through its <i>Research Partnership Programme</i>. To date, research cooperation between DIIS and DIHR has been somewhat limited, and joint research may/may not prove fruitful. The institutes share key features such as international focus and research capacity; obligations as public bodies; and statutory independence. There is some current exploration of areas for mutual reinforcement. The significant research capacity and knowledge of foreign policy issues in DIIS, and the significant human rights expertise and access to partners and experts on the ground in DIHR, could be mutually reinforcing for strategic policy influence and advocacy. 	<ul style="list-style-type: none"> • It is recommended that DIHR integrate its statutory roles to maximum comparative advantage in its international work. All aspects of DIHR’s Statute can be mutually reinforcing for enhanced human rights impact: including its high level advisory role in Denmark and with overseas partners; awareness-raising with Danish public regarding structural issues fuelling human rights violations internationally; co-operation with Danish civil society/development actors; etc. • Reflecting this integrated approach, DIHR should continue to build partner national/regional research competence. The potential for greater DIHR-DIIS synergy is broader than joint research - increased knowledge-sharing could be very positive and should continue to be explored and developed (e.g accessing each other’s networks, joint policy/advisory positions).
3.6 Expertise & capacities	
<ul style="list-style-type: none"> • Expertise & capacities: DIHR has built a comparative advantage in <i>process expertise</i> through its experience with partners. This is a <i>significant advance towards applying in practice</i> what many development organisations are committed to on paper. DIHR has a broad, multi-disciplinary staff whose <i>legal expertise</i> is often commented upon by partners and peers as a comparative advantage – in this respect it stands out among development organisations. There are however gaps in that legal expertise and in some cases staff are allocated assignments in which they do not feel expert. In some cases DIHR prioritises national/regional experts - but there is a reliance on ‘international’ experts in situations which may not merit it. • DIHR’s comparative advantages deriving from its expertise and capacities (process and legal expertise, expert network etc) –require ongoing resource investment to maintain their quality e.g providing high level human rights expertise and analysis 	<ul style="list-style-type: none"> • It is recommended that DIHR strengthen its process expertise by ensuring its partnership concept is fully based on human rights approaches (see s.2) and by ensuring it is monitored, evaluated and applied consistently. • The recent focus on ‘high-level’ human rights expertise should be systematically tracked for lessons - to identify and assess factors that render this approach feasible in practice, and factors that enable it to have intended effects. • The overdue internal capacity assessment should be conducted, with strengths identified and weaknesses addressed – linked to priority-setting (s.4 below). The assessment might consider the need for a wider base of applied programming skills as well as flexible inter-change of people with other organisations (see s.5). • Given the significant merit in prioritising regional experts, or experts from States with similar judicial and administrative systems, it is recommended that a presumption in favour of national/regional experts be scaled up systematically across DIHR.

4. Priority-setting – geographic, thematic, strategic

This chapter contains an examination of the efforts carried out by DIHR to achieve a further **thematic and geographical prioritisation of activities (TOR objectives 1 & 2)**. It also analyses and assesses efforts to apply a **regional approach (TOR objective 2)**; together with **funding and consultancies as interconnected issues that relate to prioritisation and focus**. Finally, the chapter summarises these assessments and its implications for strategic priority-setting more broadly.

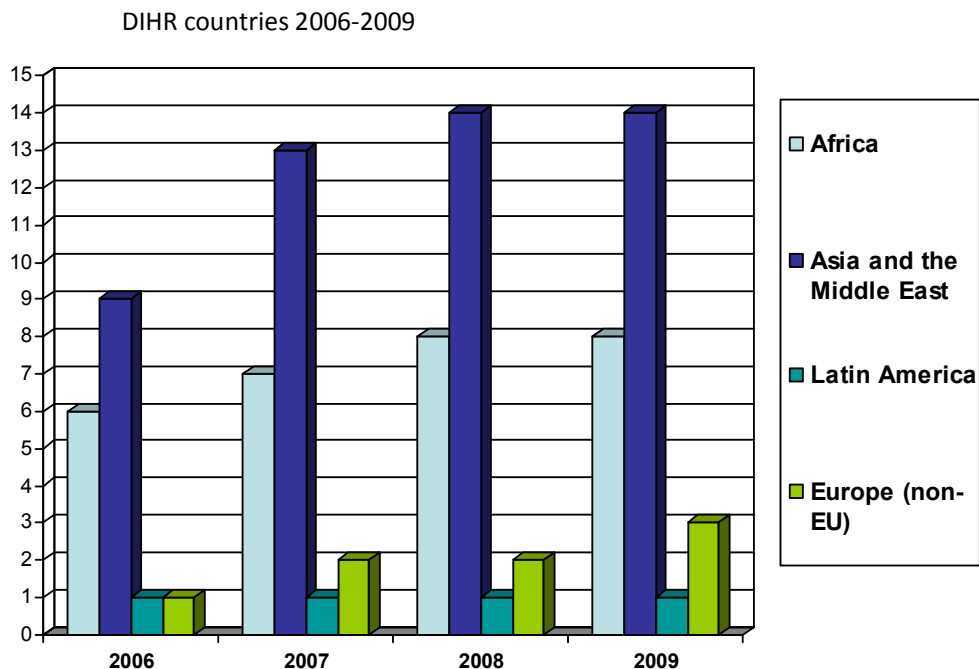
The thematic and geographic focus of DIHR's activities has been a recurrent theme in the dialogue between the institute and MFA. MFA has repeatedly called for an increased geographic and thematic focusing in activities funded under the Framework Cooperation Agreement.

The current transition, even as this review is taking place, with new leadership, new departmental organisation, and new work processes and systems being developed is inevitably a factor –but also an opportunity to strengthen overall cohesion and communication of priorities.

4.1 Geographic focus over the last 2 years

In this section, the definition of 'activities' covers programmes and projects of DIHR Departments. It does *not* cover consultancies for MFA or companies. This section also excludes activities within EU member states, which are not defined by DIHR as international; as well as a number of DIHR activities such as thematic research, where it does not have a specific geographic focus.

Although it is difficult to detect a discernable shift in geographic priorities over the past two years, a significant change since the last review of DIHR in 2005 is notable.



In the 2006 Cooperation Agreement Application, DIHR's stated geographic focus was on Africa, in particular two regions and one country: West Africa, the Great Lakes region, and Malawi. Since 2006 the geographic focus has shifted towards Asia, especially China and Central Asia, as well as the Arab World, as shown in the above bar chart.⁶³

As is illustrated in the graph above, there has been a significant increase in the number of countries where DIHR has programmes since the last review of DIHR in 2005⁶⁴ from 17 developing countries and Newly Independent States (NIS) in 2006, to 28 countries in 2009, an increase of 11 countries, or roughly 65% in 4 years. It is however important to note that there are considerable differences from country to country in terms of size of operations and number of activities.

The new countries have been predominantly in Asia and the Middle East with an increase of 5 new countries – from 9 in 2006 to 14 in 2009. The majority of the new countries were added between 2005 and 2006, whereas the increase in the period covered by this review (2007-2008/9) is limited to 4 new countries: Bangladesh, Belarus, Morocco and Zambia.⁶⁵

It is important to note that the number of countries where DIHR has activities under the Danida Framework Agreement has remained relatively stable with only Zambia having been added from this funding source since the last review in 2005. Besides DIHR activities of a regional character, the activities in countries funded under the Danida Framework covers: Burkina Faso, Cambodia, Honduras, Malawi, Niger, Rwanda, Turkmenistan, Zambia, and Vietnam.⁶⁶

The expansion in the number of countries has happened at a time when MFA has advocated an increased focus and reduction in number of DIHR priority countries. In the CAA of 2007 DIHR noted that *"The question whether to limit bilateral partnerships to even fewer countries under the cooperation agreement and thereby making the programmes larger and more efficient remains an issue for consideration."*⁶⁷ This however did not result in a reduction in number of countries in the period from 2007-2009, rather 4 countries were added to the list of programme/project countries (with Zambia being an addition funded under the cooperation agreement). While strategic documents do not explain the geographical spread in DIHR activities during this period,⁶⁸ DIHR has developed a set of criteria for geographic priority setting in the 2008 strategy for DIHR's international partnership programmes⁶⁹:

- Low income countries as defined by the World Bank's development index
- Countries emerging from conflicts or countries where conflicts may be prevented
- Countries defined as "transitional" by the EU
- Countries in which Danish embassies or embassies of like-minded countries or UN or other regional agencies can support DIHR efforts and be of assistance in case of emergencies
- Countries characterised by extreme levels of income inequality
- Regional level

As a guiding tool for geographic priority-setting these criteria are quite broad, potentially encompassing all developing countries outside the Industrialized World (and in some cases even some within). The first criteria on the list, 'low income countries' covered 23 states in 2008. The criteria in particular do not capture those partnerships that were initiated based on a direct request from a potential partner institution (e.g. a Ministry), where 'partner demand' and 'window of opportunity for leverage towards improved human rights outcomes' seem to rank high as criteria for engagement.

DIHR has also developed a set of principles and considerations to be taken into account when engaging in activities in new countries which include: (i) evidence base (i.e. research, baseline studies

or pilots studies), (ii) alignment to national priorities and strategies, (iii) complementarity, (iv) coordination, (v) potential for regional cooperation, and (vi) overall human rights impact in terms of advancing human rights knowledge and capacity.⁷⁰

Furthermore, thematic priorities have been updated and outlined in the 2009 Strategic Framework, but without any clear selection criteria for interventions specified so far.

In terms of geographic focus, the question of DIHR's phasing out and implementation of exit strategies arises. Currently DIHR is in the process of phasing out its MFA framework funded activities in Vietnam, Malawi and Honduras. Similarly, DIHR has consolidated activities at country level in a number of countries such as Malawi, Rwanda and Niger by reducing the number of partners. However, there does not appear to be clear criteria for this phasing out, agreed with partners and planned from the start.

Regardless, an examination of DIHR activities over the past 4 years, shows that activities in few countries have been entirely phased out and none where DIHR has major programmes. Rather the trend is to add new countries, with DIHR responding to new opportunities where they arise, but not routinely accompanied by phase out or handover elsewhere. While there may be good reasons to continue activities in Vietnam, Malawi and Honduras with funding outside the MFA Cooperation Agreement, the lack of clear country exit strategies naturally raises questions on an organisational level about planning for sustainability and ownership (see s.5.1 on Aid Effectiveness Principles).

According to interviews with staff, priority-setting is increasingly (over the past few years) based on 'opportunities' and demand, i.e. responding when DIHR is approached either by a partner in-country or by a funding agency or by a company in the case of Human Rights and Business. With the notable exception of West Africa and Afghanistan (see box below), it is less common that DIHR takes a proactive role in identifying geographic areas of focus; or carries out specific research to 'build a case' for a particular intervention area for support by MFA and/or with other funding agencies.

This however, is not to say that the Institute pursues every new opportunity. DIHR evaluates case by case basis whether the demand from donors or partners is sufficiently matched by a DIHR possibility to supply, and generally seeks to use consulting opportunities strategically. However, the need for this to be further systematised is acknowledged by DIHR staff and observed as part of this review (see section 4.5 below).

An example of the need to further systematise such decision-making is the Liberia consultancy conducted for SIDA in spite of it being outside the geographic and thematic focus of DIHR's West Africa regional strategy, which had been the subject of years of development with planning baselines etc.⁷¹

Flexible response to 'window of opportunity' - Afghanistan

DIHR was one of the first foreign institutions to seek to support human rights after the fall of the Taliban regime in June-July 2002 and it was enabled to be pro-active in large part due to a DIHR expert of Afghan origin. An identification mission was funded by the Danida Framework Cooperation Agreement, followed by three more missions until 2003, exploring possible cooperation with a weak civil society. By 2004, a programme developed funded outside the cooperation agreement with the MFA Afghanistan desk and the Swiss Agency for Development Cooperation (SDC): *Civil Society and Human Rights Network in Afghanistan (CSHRN)* which today comprises 60 Afghan human rights groups. DIHR's role has evolved over time in Afghanistan – from initial human rights training and facilitating networking to institutional support. DIHR's proactive engagement in Afghanistan has also led to frequent information sharing with MFA. Moreover, DIHR has been actively involved in reporting in the Universal Periodic Review process for Afghanistan (as mentioned in s.3 above).

In 2008, a Danida-SDC *external review* concluded – on the one hand – that the network had largely succeeded with concrete examples of the Network’s influence on national policy level. Key factors for that success were a timely and culturally sensitive approach, largely thanks to having a coordinator who is an international human rights expert at DIHR of Afghan origin. *This raises the general issue of whether there scope for more national DIHR experts inside countries, as with the appointment of a Niger colleague in West Africa?*

The Danida-SDC review raised a number of *other issues for organisational learning*. It noted some institutional weaknesses, common when networks become permanent organisations - such as the challenge of planning from the outset to ensure M&E is planned to capture concrete contributions towards changed human rights (see s.1 and s.5 management for results – including processes as results).

In addition, in contrast to that 2008 review, recent literature suggests the less institutional and more organic networks remain, the more likely they are to stay relevant and vibrant.⁷² In principle, DIHR organisational learning systems could have coached and pre-empted some of these issues (if e.g. headquarters fed in good practice for network support combined with information from network members on the ground).

Overall, this Afghanistan experience illustrates the strengths of DIHR being flexible to take ‘windows of opportunity’ when they genuinely arise. These roles should be harvested in on-going internal processes of critical examination for feeding into organisation-wide learning (s.6).

4.2 Efforts to apply a regional approach

Efforts to reinforce geographic programming took place in 2004, when the MFA-DIHR annual dialogue called for the development of *country strategies*. These were not consistently developed or used for coordination purposes across the organisation. In some cases, such as the China programme, the country strategy is actively used as a planning and management tool across DIHR Departments. For other countries, e.g. Cambodia – with one major partner (the *Council for Legal and Judicial Reform*) and some dispersed civil society activities – only half-hearted attempts took place to develop a country strategy and a cohesive DIHR country programme¹. DIHR’s previous internal structure of thematic teams clustered under the International Department was reconfigured in 2008 into thematic departments, suggesting thematic – rather than geographic – focus in the programming. Since 2007 there appears to also be a shift away from ‘country’ to ‘region’ in relation to geographical programming in planning documents, although this is not consistently applied or explained.

To date, it does not appear that cross-cutting geographic programming (at country and regional level) has taken root as an organisational approach. Partnerships are instead to an extent thematically driven and managed.

In the 2007 Cooperation Agreement Application (CAA), DIHR states that it will work more on a regional basis and that it will start drafting and implementing regional strategies for all geographic areas where DIHR works. DIHR recognizes that a regional strategy gives DIHR: *“the ability to address regional trends and work with partners across a number of countries, facilitating dialogue, cooperation and joint capacity building.”*⁷³

So far, however, there is only one regional strategy in place, for West Africa, which was finalised in 2006.⁷⁴ In addition, due to its size, and the crosscutting nature of activities (involving several Departments including the Research Department), the China programme is also considered by DIHR

¹ See Cambodia Country Strategy, 2004. The strategy was never used or actively updated.

as a 'regional' programme.⁷⁵ Strategies for other regions (for example Malawi-Zambia, the Arab World: Jordan, Morocco, Iraq and Yemen; Newly Independent States: Afghanistan, Kyrgyzstan, Tajikistan, Turkmenistan, Ukraine, Belarus, and Latin America: Honduras) are in the process of being developed.⁷⁶ Contrary to what is stated in its CAA (2007/08), DIHR has not so far implemented regional strategies more widely. Instead, current plans within DIHR are to focus on regional strategies only if and where this makes sense, e.g. in countries with similar legal systems, and with similar cultural and historical backgrounds. The West Africa regional programme is expected to serve as a model for these other regional approaches.

At this point in time, however, there does not seem to be an organisation-wide consensus on the role and use of regional strategies and how they are to relate to country activities.

Example of strong preparation & application of a Regional Strategy: West Africa

- Planning base prepared over years, and a **holistic context analysis** based on participation and insights from key informants.
- A DIHR West Africa team combining deep **geographic expertise** with **thematic expertise** in human rights law/practice from a range of country contexts, strategic planning and systems development and high commitment to helping stimulate change.
- The West Africa strategy, once developed, has been **consistently applied** as intended, keeping focus on the planned activities – rather than automatically following new 'opportunities'
- Efforts to **reinforce, not replace local capacity**. For example, synergy sought on an on-going basis among partners and activities in the three focal countries (Burkina, Mali and Niger). Partners and others from the three countries participate in regional events (the Dakar conference, the civil society course in Benin, the Lomé conference). The strategy includes support to the regional *Masters Programme in Human Rights* in Benin. Creative application of intra-regional expertise and exchange has important potential to contribute to sustainability (e.g judge from Burkina worked on the manual project with judges in Niger; visit by the HR Ministry in Burkina to the Documentation Centre in Niger for inspiration; region-based researchers invited to *Research Partnership Programme*, s.3 above).
- Also to reinforce local capacity, a Niger DIHR representative and a **Niger human rights officer** were hired. This **presence** in form of a regional posting and follow up in form of frequent missions is identified by partners as important.

Note: some lessons identified for learning to improve the West Africa strategy process are illustrations in s.6, organisational learning.

As outputs and outcomes at the regional level have not yet been tested by DIHR in the only implemented regional strategy so far; the West Africa Strategy, it is premature to conclude on **results at the regional level** as such.

Although implementation of regional strategies have not progressed as initially envisioned by DIHR, increased regional focus over the past two years has included increased cooperation with regional bodies or networks, e.g. support to HAKI Africa, African Court, and *Network of African National Human Rights Institutions* (NANHRI). Examples of current DIHR work with regional bodies in Africa and Asia include: dialogue with the court of the *Southern Africa Development Community* regarding

capacity building, discussions with *Economic Community of West African States* (ECOWAS) as well as *Association of South East Asian Nations* on future directions of cooperation. DIHR has also explored linkages/networks between like-minded institutions/organisations willing to support these regional initiatives.

On some issues, such as security, it is within such regional groupings that states' approaches to human rights are often influenced. However, intensifying work with such regional bodies is seen by DIHR as carrying the risk of long engagement in institutional capacity building (as needs are great); and the challenge of how to apply M&E regarding such contribution towards human rights impact (see s.5.4). It is also seen as a risk of less strategic focus on DIHR delivering high level human rights advice. However, long engagement is not necessarily required and strengthened M&E capacity for DIHR as a whole would address concerns to ensure accountability for change.

A second element of increased recent regional focus relates to some programme and project activities that have had a transferrable aspect. This is notably the case of the Malawi – Zambia inter-state cooperation. While the 2008 DIHR strategic plan's requirement of a planning base or regional strategy has not yet been drafted for this,⁷⁷ an inter-state approach has rightly sought to apply lessons identified in Malawi to Zambia in three thematic areas: (a) the Ombudsman Institution (b) the Body of Case-Handling institutions; and (c) civil society provision of Legal Aid.

Example of geographic cross-fertilization: Malawi-Zambia⁷⁸

Since before 2000 DIHR has had Human Rights Officers (HROs) posted in Malawi. The HROs have been assigned directly to partner projects. DIHR's HRO in 2006 was attached to two of the main partners in Malawi, namely the *Body of Case Handling Institutions* (BCHI) and the NGO *Malawi Human Rights Resource Centre* (MHRRC).

In 2006 a DIHR mission to Zambia investigated the possibilities for introducing similar initiatives with Zambian institutions and the potential for cross-fertilisation such as twinning between partners and activities in Malawi and Zambia. BCHI's and MHRRC's capacity and needs had changed by 2007, and an opening for cooperation between institutions in Malawi and Zambia had emerged. Subsequently, the work portfolio of the HRO was divided between Malawi and Zambia to identify opportunities for DIHR to facilitate this process.

In 2007 a mapping exercise was carried out by the HRO in Zambia with civil society legal aid service providers. A workshop discussed the findings and came up with a joint action and process plan. On the basis of this a concept note led civil society to establish a network with improved coordination and a stronger framework for legal aid provision.

In addition, DIHR provided technical expertise to promote the process of establishing a network of administrative complaint handling institutions in Zambia. Discussions were held with Government agencies, international cooperation partners, human rights institutions, such as the Commission for Investigations (the Zambian Ombudsman institution) and the Zambia Human Rights Commission.

The potential for synergies such as the Malawi-Zambia example is clear, for example the BCHI Malawi provides a rich source of lessons to learn.⁷⁹ However, there is a need to ensure that DIHR systematically and objectively questions its work, draws in relevant feedback and ensures its strengths/weaknesses are clearly consolidated/corrected – before re-application elsewhere (s.6).

Similarly, in Vietnam, DIHR's regional network of experts and regional 'competence-base' have been strategically used e.g. to identify a potentially culturally appropriate approach by bringing in legal experts from Beijing University to discuss issues of administrative detention with high-level officials. It is still debated whether the China programme will be more closely interlinked to other DIHR projects and programmes in South East Asia, such as Cambodia and Vietnam, in an actual *regional* strategy for South East Asia. It should be pointed out that 'regional' in this sense does not necessarily

imply trans-national cooperation, which may be difficult for a range of reasons, including historical ones. Rather, it implies the building of a strong competence-base that can be mutually reinforcing to efforts in different countries in the region where cultural, linguistic, political or institutional similarities suggest it makes sense.

Overall, at this point, there does not seem to be an organisation-wide consensus on the role and use of regional strategies and how they are to relate to country activities. According to DIHR staff, current plans within DIHR focus on regional strategies where this makes sense, e.g. in countries with similar legal systems, and with similar cultural and historical backgrounds. The West Africa regional strategy, as well as other examples of regional exchanges and interactions, suggest that an enhanced regional focus in DIHR activities can potentially enhance results at a national and programme level.

4.3 Thematic focus over the last 2 years

Recent steps towards enhanced thematic focus by the Institute have included re-structuring of Departments; and efforts at greater focus on providing high level human rights expertise. However, coherence across various DIHR strategic and thematic documents is not always strong, leading to some difficulty distilling a clear trend in thematic priority setting during the past two years.

Previously the Institute was divided along very broad geographic lines, with an International and a National department. To increase synergies, these Departments were merged and a new structure along the lines of DIHR's thematic focus areas was introduced. The new organisational structure introduced in DIHR in April 2008 may represent an attempt to move towards a more thematic approach. However, a number of staff in interviews identified the fact that they worked in teams on very similar themes before the re-structuring (within the International Department) and that this 'team' approach enabled easier co-ordination. The Departments notably now include both domestic and international work – by theme.

In 2008 these Departments were organised around four thematic priority areas: (i) freedoms and participation, (ii) access to justice and equal treatment (in 2009 this became two Departments) (iii) the rule of law, and (iv) human rights and business. Although education is not mentioned in the ToR as a strategic priority as such, it is a significant area of DIHR's work, both with domestic and international focus. In 2009, an additional Department is being created to reinstate the Education Department that had lapsed for a number of years. There is also a separate Research Department (see s.3 above).

According to the 2008 international strategy⁸⁰, the latest detailed planning document available, DIHR's International work covers these general focal areas:

- Freedoms, security and the rule of Law
- The inclusive society and non-discrimination
- Non-State actors
- Culture, religion and tradition
- Migration
- Poverty
- Environment and security
- Ethics

In addition to the above, in 2008 DIHR states that it operates with three cross-cutting issues: openness and access to information, human rights and HIV/AIDS, and gender mainstreaming.⁸¹

The focus areas that corresponded to the 2008 thematic structure (but not the later 2009 changes)⁸², as outlined in the Cooperation Agreement Application 2008 are listed as follows:⁸³

- Justice and Equal Treatment
 1. Securing human rights through administrative justice
 2. Protecting Human Rights through the provision of legal aid
 3. Informal Justice
 4. Criminal Justice
 5. Monitoring bodies

- Rule of law
 1. Strengthening of processes developing and supporting the rule of law
 2. Democratic representativity
 3. Strengthening of the processes implementing human rights.
 4. Facts-based dialogue', i.e. dialogue between state and non-state actors on the basis of e.g. a legal analysis
 5. Empowerment of the individual towards meaningful participation
 6. Development of the inclusive local community.

- Freedoms and Participation.
 1. Projects aiming at building up a culture of trust and cooperation amongst civil society organizations.
 2. DIHR has established civil society organization efforts e.g. creating resource centers for civil society organizations.
 3. Human rights programmes to strengthen freedom of association and speech
 4. Establishment of National Human Rights resource centres
 5. Strengthening of regional university cooperation
 6. Strengthening of national human rights associations' activities and organizations
 7. Development of coherent regional strategic frameworks
 8. Media campaigns.
 9. Addressing conflict through human rights dialogue

- Human Rights and Business
 1. Assist private investors in ensuring that human rights are not violated when they invest in fragile states

The 'focus areas' are rather incoherently listed with methodologies, objectives, activities and actors included.⁸⁴ Both staff and managers identify ensuring coherence between the Department names and responsibilities on the one hand, to specified thematic foci on the other, as a genuine challenge. The 'Department themes' and 'focus areas' are quite broad - which is unhelpful in seeking to identify priorities.⁸⁵

Thematic priorities by definition should mean that there are thematic areas that are not priorities, perhaps for a defined period. The demarcation line may not be a matter of exactitude but there must be some clarity, and staff should know what is outside the chosen focus. In principle, this demarcation emerges and becomes clear to all through a process and criteria for choosing priorities, including ongoing internal discussion around how to respond to emerging human rights issues. Flexibility in principle can be retained with procedures and criteria for *exceptions* to be considered as 'windows of (genuine) opportunity' if they arise outside of the strategic planning process.

In the current transition phase led by its new Director, in June 2009 a new Strategic Framework (covering both domestic and international work) was developed with a focus on organisational consolidation. A unified effort towards a strategy for the *organisation as a whole* is a significant step in itself. It includes broadly the same focus areas as those listed above for 2008. However, in addition, all Departments have the objective of expanding “reach” and acquiring “new partners”. It also mentions the importance of being able to respond to emerging issues and new **possible** areas of intervention, such as: “*Climate change, new surveillance technology, international terrorism, and the collapse of international financial markets*”⁸⁶, but contains little concrete information on future activities, priorities or focus within what is called “*areas of intervention*” and “*strategic objectives*”⁸⁷.

The above mentioned attempts at increased thematic focus are fully acknowledged. However, a range of documents specify different thematic ‘priorities’ and managers themselves note some disconnect between what is listed on paper as a thematic priority – and what is actually *implemented*. The focus on fragile states in the 2008 Cooperation Application Agreement is not echoed in subsequent documents, such as the 2008 strategy for international work⁸⁸ which instead focuses on transitional states. Similarly the strong emphasis on fragile states in the CAA from 2008 is not echoed in the Strategic Framework 2009-2012.⁸⁹

The June 2009 Strategic Framework contains little by way of guidance on how priorities are to be determined. It is intended by senior management that the Strategic Framework be a work-in-progress during the transition phase and that the ‘Departmental plans’ and key results-indicators per thematic priority area (recommended in the 2005 Thematic review on Partnership) will be developed simultaneously .

In this context, the current process of developing more detailed Departmental strategies and work plans, including key indicators per thematic result area is important – if organisation-wide thematic focus and prioritisation is the goal. It may be a challenge to produce meaningful key result indicators, and of little utility in practice – if thematic ‘priorities’ remain so broad. If thematic priorities are not the goal, and the preferred approach of DIHR is *geographical* focus keeping broad flexibility to address themes as needed in the country context – then it should clearly state this – and plan accordingly.

While progress in thematic priority-setting is unclear, once active in an area DIHR does in some cases evolve specific *methods of work* that indicate significant strategic approaches, as mentioned above in s.3 regarding comparative advantages, and regarding the West Africa regional strategy. For example, DIHR’s practice of working from within state partners to support improved human rights-based practice – particularly if combined with increased ‘high-level’ focus to influence more system-wide and structural changes. While such methods are distinct from the issue of what *themes* DIHR applies as priorities – DIHR should value its experience by systematically harvesting lessons and evidence of change stimulated by such methods – to inform its own priority-setting, ensure credit to partners, motivate further efforts, and influence other development actors; encourage funders – and contribute to its public accountability.⁹⁰

4.4 Funding related to geographic and thematic priority setting

Another factor that impacts on prioritization (geographic, thematic) is the issue of funding availability, and funding sources. DIHR benefits from varied and relatively extensive funding lines which suggests support from donor organisations. This should allow it to plan and implement programmes of a scale and duration that optimise the likelihood of impact and sustainability.

In cases where there are funding gaps in areas that represent a core organisational strength; a point of comparative advantage, or an area in need of urgent attention - this should be addressed by DIHR advocacy (see e.g. Afghanistan case above).

The MFA Co-operation Agreement funding has considerable scope for supporting innovation. The latest memorandum from the Danida Board for 2009⁹¹ approved 2.5 million DKK for global initiatives, and 900.000 DKK for *'not yet identified activities'*. This substantial sum could be complemented by funding from the allocation in the co-operation agreement for *'research and analysis'* (a total envelope of nearly 5 million DKK). Such flexible funds should enable DIHR to strengthen organisational consolidation in areas such as results based management, M&E as recommended in earlier reviews. This is needed to strengthen the evidence-base for setting priorities in existing areas of activity; in new and emerging policy areas; and in the vital start-up phase with potential partners.

It should be noted that in general the partnership approach applied by DIHR, is based on long-term engagements with partners and demand driven. This in principle could make it more difficult for DIHR to apply its own changed thematic focus in ongoing interventions.

The Institute has been particularly successful in securing funding and donor support for such thematic priority areas as: National Human Rights Institutions (NHRIs), legal aid, administrative justice, informal justice, and family law. For an overview of DIHR funding sources, see below box.⁹²

DIHR funding sources

The most predictable (and only secure) funding for DIHR is its **funding from the Finance Act** which is channelled via DCISM to both DIIS and DIHR through an internally set formula.

In 2008, the Finance Act budget constituted 15.2% of the overall DIHR budget. Of this, 6 million DKK was linked to national work and the remaining 11 million DKK to cover the rest of the DIHR work. This can be contrasted with the 14.8 million DKK overhead costs (administration, rent etc.) to DCISM that same year. Salaries constituted nearly 50 million DKK (around 49% of overall income).

The DIHR overall budget was around 100 million DKK in 2008. Since 2006, there has been an average increase in yearly turnover of 8.5 million DKK, with the total budget for 2009 at 110.3 million DKK.

DIHR's allocation through the **MFA Cooperation Agreement** has been 29.2 million DKK in 2008 and 2009. In 2008, an additional 33% of funds came from **other MFA sources** (e.g the MFA Asia office, including Afghanistan; followed by MENA - largely for DIHR's involvement in the Arab Initiative). Of such non-cooperation agreement MFA funds, a large majority went to implementation of activities (30.9 million of a total of 32.4 million DKK) with the rest consisting of consultancies (707,054 DKK) and 'pre-project cooperation' (698,449 DKK⁹³).

DIHR also received around 4.4m DKK from **other** domestic sources i.e research councils, Danish public institutions (outside its core funding under the Finance Act and a special allocation for equal treatment) and private organisations.

External funding sources (non-MFA) represent an increasing share of turnover (around 15m DKK in 2008). These sources include other bilateral donors, UN, INGOs etc. and the private sector and mostly comprise consultancies (nearly 10m DKK).

Total yearly income from consultancies in 2008 – i.e. MFA and non-MFA **consultancy revenue** – amounted to around 10.6m DKK. Private sector consultancies and consultancies for the EU contributed each around 40 percent of the total income from consultancies. This was followed by consultancies for the MFA (707,054 DKK) – most often on embassy request. Consultancies with other bilateral donors (generating 408,848 DKK) and INGOs (270,111 DKK) were also undertaken. Smaller consultancies were also carried out for UN agencies and the World Bank (129,000 DKK).

4.5 DIHR consultancies

An additional aspect of DIHR's international activities which relates to both thematic and geographic prioritisation is DIHR's role as deliverer of consultancy services. Consultancies represent an opportunity to strategically take forward DIHR's vision and apply its comparative advantages where it is specifically contracted to advise or deliver services.

Consultancies are quite often strategic entry points for what later become programmes, as outlined below. There is however, at least a risk that such consultancies interfere with the process and rationale for priorities through *ex post facto* rationale for undertaking a particular activity or engaging in a particular country/region.

From interviews with staff, it seems that the following is not untypical of consultancies hitherto. The example of the five consultancies since 2004 for MFA in the countries covered by the West Africa strategy is outlined in the text box below.⁹⁴

These West Africa consultancies gave DIHR considerable context knowledge, many useful local contacts and a good insight into Danish policy in the region. The consultancies have however, involved DIHR West Africa Unit staff making recommendations relating to partners of DIHR (then or future partners).⁹⁵ This raises a number of issues outlined below.

1. Risk of conflict of interest, or the perception of such (where DIHR recommends support for a partner for example, which DIHR may even later have a role in working with).
2. Viewed from the perspective of MFA, its own M&E system relies on independent consultants in a given country context. This cannot be said to be the case if DIHR is at the same time involved with the same partners through Cooperation Agreement funding.
3. Risk of unclear role of DIHR in eyes of MFA, national partners and other development actors. Example: The initial consultation in Burkina Faso for the Danish Embassy glided into the DIHR Co-operation Agreement; and in parallel involved DIHR consulting on the MFA Good Governance programme. All three stages involved the same DIHR staff – and included the same Burkina Faso partner (Ministry for Human Rights). They might be forgiven for confusion: *DIHR is an independent NHRI, what does that mean: Is it implementing Danish Embassy policy? How does it also provide Statutory advice to MFA on Burkina Faso?*

Example: West Africa consultancies

In relation to the **Human Rights Ministry in Burkina Faso**:

- i) DIHR first acted as a consultant to the Danish Embassy to assist the HR Ministry in developing an action plan – and the assignment was ‘completed’ June 2008;
- ii) In the meantime, DIHR posted the same adviser within the Burkina Ministry funded under the Co-operation Agreement to assist it developing and finalizing (what became) a strategic plan initiated during the Embassy consultancy. This was found to be needed because of the *inadequate process approach envisaged* in the initial consultancy above.
- iii) In the meantime, DIHR also acted in parallel as a consultant to the MFA *to formulate* the human rights component of the MFA Good Governance Program in Burkina. It includes Danish support to Human Rights Ministry for the next 5 years.

This series of roles contributed to some difficulty explaining DIHR’s exact role - and its independence. The basis for the DIHR involvement in the Human rights Ministry was initially a consultancy to develop an action plan (later, a strategic plan; combined with a role as DIHR West Africa Strategy adviser). A second phase discussion DIHR-Ministry for HR is now underway, to base the relationship on *partnership* (including mutual obligations, objectives, methods and indicators based on human rights) – instead of the previous consultancies whose ToR *were not designed on that basis*.

In the case of **Mali**, with a **legal aid CSO**, ‘*Deme So*’, DIHR had initiated a partnership. As in Burkina, DIHR then acted as a consultant to MFA to identify the Good Governance Program in Mali a) which included support to the NGO for the next 5 years; including b) funding to DIHR for technical expertise.

In the context of a strong regional strategy developed with a careful planning base, an ad hoc consultancy was also carried out in West Africa on a theme not covered by the strategy, in a country outside the strategy (Liberia).⁹⁶ More broadly, including consultancies for others such as commercial clients, staff interviews identify examples where consultancies were not adequately vetted to ensure DIHR can apply systematic quality assurance so it can stand over and be accountable for the process, outputs etc.

There seems to be little internal DIHR policy guidance apart from a reference in the 2008 International Strategy that “*consultancies can ... be carried out globally anywhere in the world as long as activities are held strictly within the DIHR strategies*”. With a very general Strategic Framework in place for 2009-12 and Departmental strategies yet to be developed, the parameters for undertaking consultancy work would need to be elaborated at organisation level, then applied in departmental strategies and work plans.

In terms of the parameters for DIHR consultancies to businesses, whereas the *UN Global Compact* has been attractive for companies to publicly ‘brand’ their standpoint and align on paper with some international human rights standards,⁹⁷ the DIHR compliance self-assessment tool can be used by companies to themselves check their policies and systems are human rights compliant. A weakness, both of the UN Global Compass and DIHR’s self-assessment tool is the lack of accountability systems holding companies to account based on set criteria and monitoring, with viewpoints of those who are immediately affected by a company’s actions. DIHR undertakes more general civil society training in the field of corporate human rights compliance, as well as some cross-Departmental exchange in terms of tools and lessons. However, such training is largely de-linked from company-specific consultancy services.

As with all of its work, there should be clearer disclosure, risk analysis, criteria, and guidelines on conditions for DIHR engagement with private companies, including consultancies. Such analysis and policy should also provide guidelines on how this area of operations can reinforce other areas of

DIHR work in its partner countries if and when relevant. Examples given of cross-Departmental synergies linking the Human Rights & Business Department more closely to the 'demand-side' of justice include DIHR's civil society work in Ukraine which used the HRCA tool as the basis of engagement in 2004-05.

In terms of strategic priorities premised upon the comparative advantage of DIHR as an NHRI. For both DIHR and MFA there may be lessons that could be drawn to streamline when, where, how consultancies will be applied so there is clearer guidance for both parties. In the medium term, DIHR may turn to look at when, for example, should DIHR focus on a more 'macro' level input by advising MFA on the overall role of consultancies from a human rights based perspective (general approaches to terms of reference, MFA M&E templates to ensure Denmark's international obligations etc) - and when it should be just a deliverer of consultancy services.

Aggregating such lessons to include them in the overall Co-operation Agreement relationship may be appropriate. Examples may include specific terms that could useful be noted to be 'read-in' to every specific consultancy ToR. From the example in Burkina Faso above, the initial consultancy itself raises possible lessons which DIHR could aggregate and discuss with MFA as part of a more systematic approach. Initially MFA requested an action plan, in effect so donors could provide funds to the Ministry on the basis of it. It later appeared that what was needed was a strategic plan developed through a *stronger process* with the Ministry.

4.6 Findings & recommendations: implications for strategic priority-setting

Undoubtedly, efforts have been made by DIHR to increase its regional focus and to some extent thematic, as explained above. However, there is a lack of consistency and coherence within and among various DIHR documents, such as the Cooperation Application Agreements (2007 and 2008), the Strategic Framework for DIHR's international partnership programmes for the promotion, protection and fulfilment of human rights 2008 and the Strategic Framework 2009. The challenges ahead are reflected in the difficulty in identifying criteria, processes and systematic application of stated priorities (geographic or thematic) in practice - as borne out by interviews with staff.

The assessment of inter-linkages between geographic and thematic priorities is also a challenge as the DIHR 'project catalogue' is presented on a project-by-project basis clustered geographically⁹⁸, whereas the organisational logic and structure for programming operates broadly along thematic lines. For country and regional coordination, the 'cheerleader model' is used to ensure cross-departmental information sharing by country or region. However, this model is new to DIHR and seems to be limited to information-sharing, rather than organisational priority-setting, or budgetary decision-making. So far, detailed Departmental (thematic) strategies are being prepared under the 2009 Strategic Framework, with objectives and 'key indicators' intended to be systematically monitored to aggregate results to departmental level (see also s.5.4, management for results).

DIHR plays many different roles simultaneously: partner organisation, funding body (to a lesser degree), research body, policy advisor, consultant etc. There are countries where DIHR operates in many different roles simultaneously through: long-term partner support via Cooperation Agreement funding, programme formulation consultancies for MFA (and others); through de-centralised funding as an 'implementing agency' or recipient from the Danida country framework (Cambodia, Burkina Faso, Vietnam etc.). A discussion on thematic and geographic focus and its consequences for overall strategic planning and partnership with MFA, must take these different roles into consideration. However, to do so requires that DIHR have systems in place to readily track and oversee these roles (see s.6).

➤ **Recommended geographic prioritisation: countries/ regions**

Geographic prioritisation would require that DIHR delineate more clearly a coherent and documented *strategic basis for focusing on particular countries or regions and the basis on which exceptions are made to these priorities – whether a particular need or window of opportunity.*

While maintaining the DIHR context-sensitive and ‘behind the scenes’ partnership approach, DIHR would seek to deepen work on supply and demand-side of human rights change, including private sector, as needed in ‘programme countries’, and also facilitate a more systematic bridging of state, non-state (including private sector) actors in line with the human rights principles of empowerment, participation and accountability.

Strategic prioritisation of countries or regions would benefit from a stronger emphasis on synergies across DIHR’s 10 Statutory roles, to accompany its increased efforts for synergies across its Departmental structure. The merits of more cross-Departmental collaboration to maximise synergy effects is a priority for DIHR and already happens in numerous cases, as has previously been highlighted. These synergies should be designed for clearly identified human rights outcomes – applying the tried and tested criteria of relevance, efficiency, effectiveness, sustainability and impact to identify optimum entry points and exit strategies. Based on this, organisation-wide priority-setting should be mutually-reinforcing, bringing new angles and levels of intervention towards the same country or regional objectives (see for example the pilot recommended in Text Box concerning Burkina Faso in s.5).

This would also clarify what roles the Institute can and should play in the countries where they operate, what funding sources to use and which to try to obtain for what purpose. For instance, once partnerships are well established and start to contribute to identified change processes, funding for it should preferably be sourced directly from decentralised bilateral funding sources (via embassies, pooled donor baskets etc.). This is more in line with aid effectiveness principles and is, in effect, what tends to happen in practice (s.5). How soon, and in what sequence, this ‘shift’ should be expected to take place may vary. It is recommended, linked to the organisational learning recommended in s.6, that such a ‘shift’ be pilot tested.

The **Cambodia** case is illustrative of such a shift from central DIHR Cooperation Agreement funding to decentralised funding from the Danish Embassy and other development partners present in Cambodia. Through its long-term partnership with the *Council for Legal and Judicial Reform*, DIHR is successfully tapping into support from the Danida country frame to provide implementation and M&E support to the Council’s Action Plan for legal and judicial reform. This was achieved on a competitive basis through tendering for joint Danida-AusAid funds, and DIHR’s long involvement in the sector meant it was successful in securing funding.⁹⁹

There, the MFA framework cooperation agreement funding was used for strategic development and positioning of partners, with the de-centralised country frame providing for follow through funding in implementing those strategic plans – with DIHR’s continued technical support.

In *selected strategic countries*, this approach would also help clarify DIHR’s consultancy roles. By virtue of trying to attract such decentralised (embassy) funding, it would not be strategic to participate e.g in programme formulation missions that could disqualify DIHR in later tendering procedures.¹⁰⁰

In the Cambodia example, (i) funding for the Cambodia partner can be removed from the following year’s Cooperation Agreement Application (CAA), and (ii) the resulting ‘funding space’ on the CAA can be used to further identify and aggregate lessons from this country process (e.g to inform other

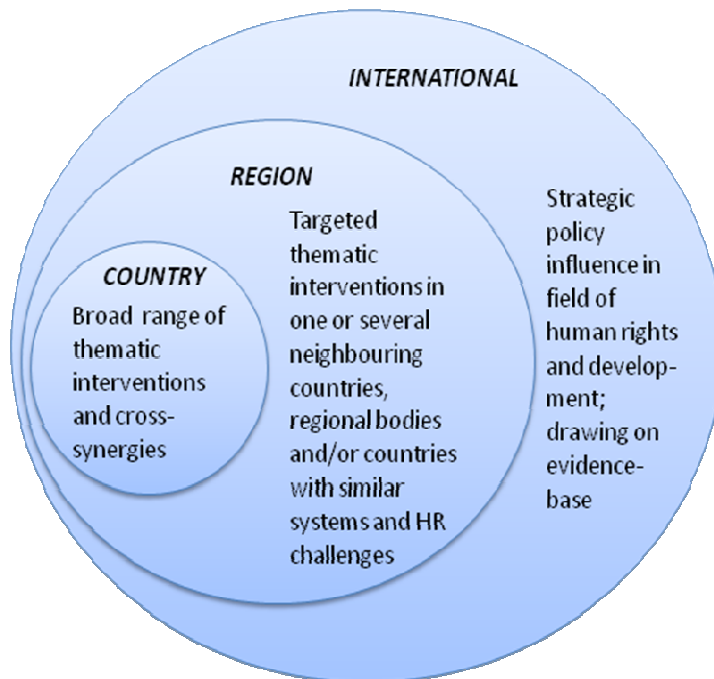
programming, concept development, DIHR policy, outreach and advisory roles). The 'funding space' can also be used to respond to upcoming issues but only if others are phased out - consolidation and further quality assurance systems should be the immediate priority.

This recommended system of *rotating issues and activities* funded by the Cooperation Agreement should help ensure the Institute stays relevant in its sphere of influence and cost-effective. Ultimately, if DIHR fails to attract decentralised or other funding after a number of years of engagement in a particular process (funded through the Cooperation Agreement), it may indicate the Institute having outplayed its role in that particular country or context (assuming tendering does not fail due to lack of internal quality assurance).

➤ **Recommended thematic perspectives**

Applying a more focused DIHR-wide strategy in a *selection of countries* as outlined above, would entail DIHR more specifically identifying what human rights changes, partners, policy advice, its identity (s.2) and comparative advantages (s.3) best equip it for - to maximise human rights impact most cost-effectively.

Thematic priorities need to be based on similar considerations of policy leverage and opportunities, in line with DIHR's *comparative advantages*. Thematic priorities also need to be coherent with geographic considerations (e.g. activities based upon regional treaty). DIHR's increased focus on working with regional bodies is an example of combined regional and thematic focus with the advantage of strengthening its regional knowledge base and feeding into lessons identification across jurisdictions. Interlinkages between geographic and thematic priorities, which would relate to programming planning and delivery, the various DIHR Departmental plans etc., might be represented thus:



➤ **Recommended strategic use of funding sources**

More complementary use of different funding mechanisms can be achieved (cooperation agreement, core support, decentralised/bilateral funding for support to implementation, consultancies etc.).

For each potential intervention, it is important for DIHR to clarify its objectives such as: (i) to contribute to clearly identified change processes on a national level (applying cross-Departmental synergies and a holistic approach to several entry-points), (ii) build a more specific thematic or regional competence and evidence-base (e.g. to feed into DIHR’s advisory role and future programming), or (iii) contribute to ensuring that donor development assistance in line with Paris Declaration principles of aid effectiveness is properly incorporating human rights-based approaches (for which consultancies can be effective) See above graph.

➤ **Recommendations regarding DIHR consultancies**

The extent of DIHR’s success in attracting consulting opportunities is no doubt in part attributable to its positive reputation as an organisation, and particularly of its staff. This can represent an ongoing funding source to promote human rights change as well as an important opportunity for DIHR to systematically influence key donors.

Currently there is a lack of an identifiable system for managing consultancies undertaken by DIHR: one that applies clear criteria, supervises quality, ensures coherence with DIHR’s mandate, and maximizes learning for the overall benefit of the organisation. As a public body, key criteria for selecting consultancies might include forwarding knowledge in areas where DIHR’s advisory role may later be applied; or opportunities to set landmark standards that will impact on development assistance on a particular theme or influence a wider network of donors. Bearing in mind appropriate confidentiality, such consultancies could be followed by ‘convening’ a seminar on the overall topic to discuss lessons identified; issues published in Policy Briefs for wider advocacy and use; followed-up concerning implementation by others or any recommendations – to inform DIHR organisational learning (s.6).¹⁰¹

➤ **Key findings & recommendations in relation to thematic and geographic priority-setting**

The following table summarises key findings and recommendations in relation to the issues of geographic and thematic priority-setting discussed in this section.

Key Findings – setting priorities ToR objectives 1 and 2	Recommendations
4.1 Geographic focus	
<ul style="list-style-type: none"> • Geographic criteria are too broad to be helpful in priority-setting, with a significant increase in the number of countries of operation within the past 4 years (one funded from the Co-operation Agreement). • Lack of criteria for success as basis for phase out resulting in lack of implemented exit strategies (see also s.5.4 management for results) • The current transition is a factor (with new leadership, new departmental organisation, and new work processes and systems being developed) -but also 	<ul style="list-style-type: none"> • <i>Develop</i> and <i>apply</i> criteria for geographic priority setting consistent with DIHR’s identity, comparative advantages and overall strategic aims. Include criteria for engaging as well as automatic M&E in partnerships as a planned basis for phasing out. • Enhance M&E to identify and replicate interventions that best contribute to change, so that resources can be more effectively targeted (s.5.4 also).

<p>an opportunity - to strengthen overall cohesion and communication of priorities.</p>	
<p>4.2 Regional focus</p>	
<ul style="list-style-type: none"> • Although regional strategies have not been implemented systematically, attempts at an increased regional focus have been made in the past two years (cooperation with regional bodies such as Network of African National Human Rights Institutions (NANHRI); inter-state synergies such as Malawi – Zambia). • These and the West Africa regional strategy suggest an increased regional focus in DIHR activities which may in turn enhance results at a national level and transferability of lessons. 	<ul style="list-style-type: none"> • Strengthen the identification, adaptation and re-testing of lessons identified from one programme/country/regional context before application in another. Synergies at regional level (and more generally) should be strengthened by organisational learning system - at arms-length from programming recommended in s.6. • Keep strengthening regional competence-bases that can be mutually reinforcing in countries with cultural, linguistic, political or institutional similarities.
<p>4.3 Thematic focus</p>	
<ul style="list-style-type: none"> • Lack of coherence and inconsistency across strategic documents makes it difficult to identify a clear approach to thematic prioritisation over the past two years. • The new organisational structure introduced in DIHR since April 2008 may help towards a more coherent approach to thematic prioritisation. • The June 2009 Strategic framework is intended to lead to ‘Departmental plans’ with key results-indicators per thematic priority area – as recommended in the 2005 thematic review on Partnership. However, doing so will be a challenge as themes are extremely broad. • While thematic priority-setting is not clear, once active in an area DIHR does evolve specific <i>methods of work</i> that indicate significant strategic approaches (as mentioned in s.3 regarding comparative advantages). For example, DIHR’s practice of working from within state partners – particularly if combined with increased ‘high-level’ focus to influence more system-wide and structural changes. However, DIHR does not systematically harvest lessons and evidence from such experience (M&E) to inform it’s priority-setting. 	<ul style="list-style-type: none"> • Apply an internal participatory process of strategy setting that guides DIHR work over a multi-annual cycle. Examine underlying assumptions regarding what DIHR is and should optimally do (including in light of s.2 and s.3 above). • If thematic priorities are <i>not</i> helpful given the inter-relatedness of the human rights themes DIHR works on, and if its preferred approach is <i>geographical</i> focus combined with strategic <i>methods of work</i> designed for the evolving partner/country context – then it should clearly state this – and plan accordingly. • However, if thematic priorities are set out in strategic documents they should be coherent, applied and supervised organisation-wide. • DIHR should keep enhancing combined regional/thematic thinking e.g. via support to regional bodies. • A more flexible use, and <i>rotation</i>, of activities within MFA Cooperation Agreement funding is recommended to <i>make space</i> to consolidate management systems (s.6) and in the medium term to pilot new areas of intervention. • Making such ‘space’ requires strengthening the lead-in process to partnerships: to ensure shared understanding of objectives so that M&E forms the agreed basis for exit strategies. • It is recommended that DIHR delineate more clearly <i>strategic countries for more in-depth programming- and more strategic policy influence at Danish and international levels</i> (see geographic focus above). • This requires internal review of the current DIHR

	<p>portfolio – thematically, and geographically (country/regional) informed by strengthened M&E across all activities. This is essential for distinguishing those processes that are in the direction of stimulating change.</p>
<p>4.4 Funding relating to priority-setting</p>	
<ul style="list-style-type: none"> • DIHR benefits from varied and relatively extensive funding lines which suggest support from donor organisations. This should allow it to plan and implement programmes of a scale and duration that optimise the likelihood of impact and sustainability. 	<ul style="list-style-type: none"> • In addition to ‘making space’ for new programmes by planned phase-out, it is recommended that DIHR allocate funds to address management systems in the direction recommended to support genuine strategic priority-setting, to consolidate results based management, M&E as recommended in earlier reviews since 2002. This is key to strengthening the evidence-base for setting priorities in existing areas of activity; in new and emerging policy areas; and in laying the groundwork for exit during the start-up phase with potential partners.
<p>4.5 DIHR consultancies</p>	
<ul style="list-style-type: none"> • Consultancies are quite often strategic entry points for what later become programmes. Consultancies can represent an ongoing funding source to promote human rights change as well as an important opportunity for DIHR to systematically influence key donors. • There is however, a risk that such consultancies interfere with priority-setting through <i>ex post facto</i> rationalisation of a particular activity or engagement in a particular country/region. • Issues of conflict of interest need to be addressed in future approaches to consultancies with MFA. • Consultancies are not always adequately vetted, with systematic quality assurance to ensure DIHR can stand over and be accountable for the process, outputs etc. 	<ul style="list-style-type: none"> • A system for managing consultancies is needed at organisational level: one that applies clear criteria, supervises quality, ensures coherence with DIHR’s mandate, and maximizes learning for the overall benefit of the organisation. This includes clearer disclosure, risk analysis, criteria, and conditions for DIHR consultancies with private companies. • DIHR may consider on a more ‘macro’ level input in its Statutory advisory role with MFA regarding overall role of consultancies from a human rights based perspective – as distinct from DIHR as a deliverer of consultancy services. Aggregating such lessons with MFA to include them in an overall Co-operation relationship may be appropriate.

5. Aid effectiveness principles

This section examines the extent to which DIHR applies the aid effectiveness principles of country ownership, alignment, harmonisation and donor coordination, as well as managing for results in its activities in developing countries (ToR objective 4). In considering managing for results, s.5.4 also reviews organisational level M&E.

These are policy principles, adopted in the *Paris Declaration on Aid Effectiveness* (2005)¹⁰², and reiterated in the *Accra Agenda for Action* (2008). The aim is fundamentally “better aid” and “lasting development results”:¹⁰³

- Ownership: partner countries exercise effective leadership over their development policies and strategies and coordinate development actions.
- Alignment: Donors base their overall support on partner countries’ national development strategies, institutions and procedures.
- Harmonisation: Donor actions are more harmonised, transparent and collectively effective.
- Managing for results: Donors/partners manage resources and improve decision making for results.
- Mutual accountability: Donors and partners are accountable for development results.

The OECD’s Development Assistance Committee (DAC) members have committed themselves to enhance their support for the protection and promotion of human rights and to integrate human rights more systematically into development assistance objectives and processes.¹⁰⁴ This commitment was reinforced in September 2008 by the *Accra Agenda for Action*¹⁰⁵ which called for *a more systematic and coherent way* of addressing human rights as one of the fundamental cornerstones for achieving enduring impact in the lives of poor men, women and children.¹⁰⁶ Denmark is currently co-chair of the *DAC- Human Rights Task Team*¹⁰⁷, which has worked on the integration of human rights into development cooperation since 2005.

Each country context will differ, but “*dialogue will need to take the partner government’s existing obligations as its starting point.*”¹⁰⁸ This reflects the fact that core principles of human rights based development form the *legal framework* within which the OECD DAC *policies* of aid effectiveness are to be understood: international human rights law sets out the results states have committed themselves to, including the *process results*.¹⁰⁹

Reflecting this, the DAC has identified ten principles intended to serve as basic orientations for applying the Paris Declaration in practice (see box).¹¹⁰

Principles for promoting and integrating human rights in development (DAC)¹¹¹

1. Build a shared understanding of the links between human rights obligations and development priorities through dialogue
2. Identify areas of support to partner governments on human rights
3. Safeguard human rights in processes of state-building
4. Support the demand side of human rights
5. Promote non-discrimination as a basis for more inclusive and stable societies
6. Consider human rights in decisions on alignment and aid instruments
7. Consider mutual reinforcement between human rights and aid effectiveness principles
8. Do no harm
9. Take a harmonised and graduated approach to deteriorating human rights situations
10. Ensure that the scaling-up of aid is conducive to human rights.

DIHR is not a 'donor' in the classical sense, since support is primarily technical.¹¹² However, the Institute is clearly acting as a *complementary development partner* with different forms of smaller financial support and incentives to partner institutions (including 'core' or institutional support for partners' mandates or strategic plans). It is reasonable to expect that DIHR would be working to ensure it promotes more effective aid in all its work and with all its partners– and it is appropriate for MFA to expect it does so with funds for which MFA is accountable.

The following sub-sections outline DIHR's application of the aid effectiveness principles drawing on field case studies (Cambodia, West Africa) and desk review countries (Vietnam, Malawi, Afghanistan) with other examples drawn upon from review interviews and documents.

5.1 Ownership – state and non-state

From the cases and examples reviewed, DIHR's emphasis and commitment to partner (both state and non-state) ownership of processes and interventions that DIHR supports is evidently *high*.

➤ **Key factor - partnership approach and long-term engagement**

At the heart of the Paris Declaration's commitment to greater ownership (and alignment considered below) is donors' commitment to channel their support through a country's own institutions and procedures. The logic for this, a matter of aid effectiveness and sustainability, is captured in DIHR's commitment to partnership as *intrinsic* to the way it works, i.e. to support existing institutions and act as catalyst towards human rights progress. Even when DIHR is directly involved in day-to-day technical advisory services (TA) – as in Cambodia and Malawi – it puts its partners as well as partners' operational context at the forefront. A key feature contributing to strong partner ownership is that – rather than following a traditional 'project mode' – DIHR programme interventions are intended to support and fit within long-term change processes implemented by the partners themselves. This practical reality might usefully be made even more explicit in language describing DIHR interventions, both in strategies and in the Cooperation Agreement Application. This would highlight, for example, the international legal norm, and Paris Declaration policy principle, that the state has the primary duty to ensure human rights based development is realised.¹¹³

Frequently, DIHR seeks to reinforce state and non-state actors sharing 'ownership' of the same process reflecting the human rights principle of *empowerment* - while acknowledging the distinct roles and legal obligations of different actors. Examples include the UPR process concerning Afghanistan mentioned previously; and current efforts to design civil society input to monitoring of justice reform in Cambodia.

The partnership model between *Malawi Human Rights Resource Centre* and DIHR is described by staff as a prototype for many of DIHR's international partnerships: a common human rights vision, long-term commitment, mutual respect and an approach where the local partner is viewed by DIHR as the 'implementer' with DIHR providing technical assistance and coaching.

In *Partners in Progress Human Rights Reform and Implementation*¹¹⁴, DIHR expressed it as follows: "The fact that [DIHR] is not involved in the overall decision-making process and concrete project implementation of partner institutions ensures that it is up to the partner institution itself to take responsibility and carry out decisions agreed upon under a partnership contract. In this way partners are fully responsible for their own successes and failures..."

The primacy of a partner's ownership should not however be interpreted to reduce DIHR's own obligation of accountability for - and need for effective M&E of - its own contributions.¹¹⁵

Overall, while DIHR has a very positive focus on partnership, there is scope to refine and reinforce this, as noted for example in the s.2 text box concerning West Africa. This includes drawing on the human rights principle of partner's *participation* in their own development being a matter of right; and the requirement of *accountability* for impact to rights-holders, to be planned with partners from the start¹¹⁶.

Staff interviews highlight DIHR plans to identify lessons and consolidate its 'partnership approach'. Time and resources spent now in examining existing partnerships and working towards a unified (albeit adaptable) model is likely to be a useful investment going forward. In a number of long-term relationships (Malawi, Niger) baselines were not put in place at the outset, 10 years ago, so concretely proving progress is more of a challenge than it might have been (see s.5.4). Documented baselines and indicators regarding partnership would not only assist future planning but also enhance DIHR's advocacy of obligation and merits behind partnership approaches with other development actors and also vis-à-vis funders who may perhaps not appreciate the time that meaningful partnership takes.¹¹⁷

Given that delicate political climates are routine for DIHR, and given the nature of the change processes it supports (such as demand-side awareness raising, judicial and legal reforms, widening and securing the space for civic participation etc.), it is often necessary to apply a long-term perspective. A timeframe of 7-10 years of engagement was typical of country programmes reviewed. The MFA Cooperation Agreement is very important in enabling this timeframe. A challenge for DIHR can arise where additional funding from other bilateral agencies has a shorter timespan.¹¹⁸ This highlights the importance of DIHR influencing a wider improvement in aid effectiveness – in order that it can itself apply the insights gained from its work – more consistently.¹¹⁹

➤ **Other factors contributing to ownership:**

- DIHR's positive focus on '**context-sensitive**' work is both a key finding of the field visits and set out in the 2008 Strategy, drawing on regional/country research and extensive networks with accumulated insights and expertise in a range of countries. For example, in Malawi and West Africa, Vietnam.
- The **ability to respond quickly and appropriately to windows of opportunities** such as outlined regarding Afghanistan in s.4.
- The **primarily non-financial, facilitator relationship** between DIHR and its partners, focusing more on technical assistance, convening & process facilitation can be an advantage that promotes partner ownership of processes. In many cases the low profile of DIHR has been appreciated by partners particularly given some of the sensitive human rights issues being addressed (Burkina Faso, Cambodia).
- In relation to non-state actors, DIHR's **core funding to non-state human rights defenders**, combined with education¹²⁰ and technical support has in general contributed to strong ownership (e.g. in Cambodia, Niger, Malawi). As an example, participatory processes facilitated by DIHR e.g. radio broadcasting from rural communes, with phone-in sessions with key government officials were new to DIHR's early non-state partners in Cambodia. This is now part of the NGO's regular programming, and attracted funding from the Danida Good Governance Programme after DIHR's withdrawal.¹²¹ At the same time, there can be **sustainability** issues for CSOs where financial dependence arises from continued DIHR financial support over the years (an example may be ANDDHH Niger). This challenge is not unique to DIHR.

- In countries studied more in-depth in this review (e.g Cambodia, Malawi, Burkina Faso) a combination of funding and technical support has in some cases enhanced ownership by local partners, enhancing their legitimacy vis-à-vis local counterparts and enabling them to secure alternative funding. In Cambodia, DIHR's technical support to drafting the Action Plan of the *Council for Legal and Judicial Reform (CLJR)* has **strengthened this partner's access to funds** from a range of different donors. Similarly, In Malawi DIHR's technical support to the *Body of Case Handling Institutions (BCHI)* has resulted in a Strategic Plan that has been used to secure funding from other sources; as with the new Basket Fund in support of the implementation of the strategic plan of the *Ministry for Human Rights* in Burkina Faso.

Related to this is DIHR's involvement in longer-term partnerships and processes which is most often based on a clearly expressed demand from national partners – even though that 'demand' sometimes arises in response to donor concerns (e.g. the need to draw up a sector plan before support can be channelled to the justice sector, Cambodia; or similarly with the Ministry of Human Rights Burkina Faso). This may actually help sustainability in that DIHR thereby supports *already ongoing processes* that have a natural 'political life' of their own. The participatory nature of engagement can also support gradually widening buy-in, both from the partner itself and its constituents. For instance, in relation to the development of a plan: *Legal and Judicial Reform Strategy* in Cambodia, initial training and joint conceptualisation with the coordination secretariat was gradually widened to include all implementing line ministries and agencies, and civil society.¹²² In addition to achieving the output of completing the strategy development – largely due to gradually securing widespread buy-in – the Government of Cambodia adopted this strategic plan in 2003. On the other hand, DIHR also provided outputs-based financial incentives to the staff of the coordinating secretariat which may hamper more long-term sustainability.¹²³

In this context, more **clarity and consistency regarding the basis and core principles of DIHR approaches to partnership** would be important, with systematic identification of lessons for adaptation to future work. Partners interviewed in Cambodia appreciated DIHR's 'bridging role' in relation to the rest of the donor community, while in Burkina Faso it was decided that such a role would be inappropriate in that partner's context. There are a range of factors behind such decisions as to what is best for partner 'ownership' in a given context. Harvesting and reflecting on those factors will be important in organisational consolidation: how to manage the fine balance of being fully up to date with the wider donor community's interests and policies on the one hand, and staying at 'arm's length' from donors,¹²⁴ including in order to promote ownership.

In the countries reviewed, the *methods applied to partnerships* were often assessed to be innovative and appropriate in enhancing national ownership. However, ease of communication should be a priority for influencing others.¹²⁵ It can be counter-productive if over-complex labels are used for simple ideas, if ownership is over-claimed¹²⁶; or if new 'concepts' are developed for internal use which unnecessarily suggest DIHR is unique.¹²⁷

5.2 Alignment

Alignment, the principle that donors should base their development support on partner countries' national development strategies, institutions and procedures is closely linked to the concept of ownership. According to the law applicable, and reflected in recent DAC research, alignment in the context of development aid means that national mechanisms for channelling development assistance must be coherent with the country's human rights obligations and with the views of rights-holders themselves.¹²⁸ The TORs for this review (*Objective 4.1*): **assess to what extent activities of DIHR are aligned with the strategies and activities of their state and non-state partners, and whether DIHR support contributes positively to strategic development at local level.**

➤ *Alignment with strategies and mandates of DIHR's state and non-state partners*

Alignment with strategies and mandates of DIHR's state and non-state partners is at the heart of DIHR's partnership approach. This '*guiding philosophy*' is also something that both the Institute and its partners take great pride in. DIHR's status as a public body and as an NHRI with a clear human rights mandate offers unique advantages in promoting alignment – in terms of the specific nature of partners' mandates (the rights and duties involved) and related strategies.

Interviews, literature review and field visits highlight a number of examples that illustrate DIHR's success in aligning with strategies and mandates of partners: the *Malawi Public Service Charter Programme* (a programme developed in cooperation between the Malawi Government and DIHR); and the DIHR supported *Village Mediation Programme*, which, according to local partners is highly relevant in complementing other primary justice initiatives.

A vivid example regarding non-state partners is DIHR support to the *Women's Media Centre* in Cambodia for radio programmes (through visiting journalists from Denmark etc.) where institutional funding was coupled with technical support. Importantly – DIHR did not dictate which topics to choose - whereas other funding agencies were said to have precise requirements regarding the radio programmes content.

State partners interviewed during the review referred to DIHR as 'family' and 'one of us' (Cambodia and Niger). Partners contrasted this to other donor-funded interventions which were at times seen as imposed or as presenting a donor's point of view. This is perhaps partly explained by DIHR's technical and strategic, rather than financial, relationship with partners, but also linked to its general approach which includes strong process skills with partners such as mentoring and facilitation.

DIHR supports partners to fulfil their own mandates, strategies and legal obligations, and DIHR's contribution to these processes through ideas developed over time and across countries, requires a fine understanding of **mutual obligations in the partnership** (see mutual accountability below). The **initial stages** of the partnership are therefore critical to develop a good mutual understanding, to be flexible enough to adapt as appropriate, and to avoid steering processes in an inappropriate direction, or exceeding a partner's implementation capacity. At the same time it is important to ensure that non-negotiable standards are at the heart of the partnership.

This is key to effective priority-setting for limited resources (see s.4 above), starting from DIHR's strategic objectives in stimulating human rights change, and on that basis assessing the evidence of each opportunity for its **relevance, efficiency, effectiveness, sustainability and impact**. There is

scope to harvest and consolidate at organisational level, clear criteria for whether, when and where to partner with whom – and on what conditions to phase out.

DIHR consultancies – s.4 above referred to the importance of a DIHR policy on consultancies and systems of supervision at organisation-wide level. From an aid effectiveness perspective the guidance should enable DIHR staff to contribute to human rights-based alignment of donor assistance.

➤ ***Ensuring that national mechanisms for channelling development assistance are responsive to a country's human rights obligations***

The Cambodia case highlighted in the previous section is a good example of how a DIHR-supported partnership sought to channel development assistance (on judicial and legal reform) in coherence with the State's legal obligations. In the partnership cooperation agreement, the partners (DIHR and the *Permanent Coordination Body of the Council for Legal and Judicial Reform*) refers to the Cambodian Constitution which automatically incorporates "the international treaties to which the State is party" as the shared base for the design, execution and follow-up of any measures executed in the collaboration.¹²⁹ Those relevant international commitments of the State of Cambodia were detailed in an annex, and referred to throughout the project documentation. The example of West Africa consultancies (s.4) highlights the importance of systematic approaches to alignment across *all DIHR activities*, including consultancies (from which the relationship with the Ministry for Human Rights initially derived).¹³⁰

DIHR's status as a public body and as an NHRI generally helps the Institute in forming relationships with state actors (such as Vietnam and China), by clearly making reference to international human rights standards as the base for the partnership¹³¹. The 2008 international strategy, which is the latest more detailed policy document for international work, also states that "... *partners should be committed to shared core values based on internationally recognized human rights standards, or a process of developing mutual values should be activated.*" This seems to be applied in DIHR partnerships reviewed, often directly linked to international human rights standards (e.g. high-level discussions to promote the ratification of the Convention Against Torture, CAT, in Vietnam).

However, as mentioned in s.4 regarding exit strategies, both criteria, and M&E to apply such criteria, seem to be lacking to identify when a partnership veers off international rights standards.

In addition, more explicit mention of *DIHR's own legal mandate and obligations under international law, and as an NHRI*, could be included in project documents and in partnership agreements – especially reflecting its own need for enhanced results based management, see West Africa text box s.1.

5.3 Harmonisation & donor coordination

The review has examined the extent to which DIHR-supported interventions are *harmonised* and *coordinated* with other relevant development partners' activities including co- and parallel funding (TOR, objective 4.3) and "how do interventions of DIHR complement those of other development and human rights partners" (TOR, objective 3.1)

The quest for more collectively effective aid assistance through greater harmonisation and coordination is a challenge for all development actors. A number of features of DIHR's activities contribute to this collective effort - while a number of steps are identifiable that would strengthen its approach.

The universality and legitimacy of the human rights framework states have created for themselves is a clear aide to harmonisation and co-ordination. This is reflected in the ten DAC principles outlined above aiming to achieve more harmonised and less fractured development assistance. In a country context where harmonisation & donor co-ordination are approached on this basis they are methods which are capable of advancing human rights based results (i.e development).

➤ **DIHR harmonisation & coordination with others donors**

In general, DIHR aims to plan interventions through advance pilot studies, scoping visits, consultation processes. In some cases it is instrumental in drawing donors/development actors into consultative groups or steering groups for its programmes - such as the basket fund in support of the Ministry for Human Rights in Burkina Faso (including rare UNDP participation).

The 'bridging' role at times applied by DIHR can make an important contribution to coordination. In particular, DIHR, as part of its NHRI comparative advantage, it is generally well placed and sufficiently well respected to advise partners on how to engage most strategically with the donor community on issues related to its area of work (e.g Niger, Cambodia, Malawi, Rwanda, Zambia and Turkey). The more clarity there is with partners and donors regarding its role, the better placed it is likely to be (see s. 4 consultancies).

On technical cooperation for capacity development - Cambodia

"We see [capacity development within State institutions] as a process of change. As such, it involves much more than technical, managerial or econocratic engineering. Issues to do with power and conflict, human psychology, social adaptation, financial resources, incentives and motivation interact to shape capacity outcomes. Many different approaches to change may be relevant... Effective interventions are often associated with flexible and iterative approaches such as rolling plans that recognise change and capacity development as long term processes that cannot be easily predicted. This is especially important in complex and politically sensitive environments where the momentum and direction of reform can quickly change."

- From the report 'Making the system work better' T. Land, P. Morgan in collaboration with the Joint Technical Working Group on Partnership and Harmonisation, Cambodia (Jan '08.)

Although its 'bridging role' between state and non-state partners and other development partners is not generally an explicit principle purpose of DIHR partnerships, it is something that partners and donors note appreciatively where it is carried out.¹³² Importantly, however, DIHR does not seek a dominant role in co-ordination fora, but the partner in principle takes leadership and ownership over processes. In countries such as Burkina Faso, DIHR has opted not to attend donor coordination fora so that the lead is with the Ministry itself (to appear as a donor was seen as potentially negative for the Institute's technical cooperation with the Ministry).

This suggests that policy and other guidance as to when and how to carry out this role may be helpful to ensure coherence of DIHR's role across contexts. In doing so, DIHR itself would need to be systematic in ensuring staff are informed of latest policy, plans etc of other development partners in the countries in which they operate – itself a support which organisational learning can provide, as this can be a resource-intensive exercise if done at country-level on an ad hoc basis (see s.6).

In terms of **coordination with MFA**, the framework cooperation agreement between MFA and DIHR states that it is the responsibility of DIHR to provide an *Information Sheet* to MFA and to the Embassy within one month of the start of new programme. “It is the responsibility of DIHR to co-ordinate programmes with the Danish Embassies and to have continuing dialogue with Embassies on how they interact with other Danish financed activities.”¹³³ This seems to work well. A more systematic approach to its Statutory advisory role should help optimize the potential for mutual reinforcement in policy dialogue with MFA and other donors (see s.3 comparative advantage).

Linked to its ‘bridging’ role, the ToR ask “**how do interventions of DIHR complement those of other development and human rights partners**”. In some cases, such as the planning base for the West Africa strategy, there is not sufficient focus on context analysis in terms of which development actors are present, their priorities etc. and how to complement their work. On the other hand, a need to influence others to achieve complementarity is identified (e.g West Africa planning base refers to the need to strengthen UNDP's approach to supporting NHRIs) but this does not become a priority. Rwanda provides a positive illustration of the kind of role DIHR can systematise for wider strategic influence. There, DIHR support is said to have contributed to ensuring the national PRSP includes ‘*the availability of legal services to the population*’ as a poverty reduction indicator¹³⁴.

Influencing other international and development actors should be a key strategic objective of DIHR to reflect the strength of its ‘bridge’ role; and to reflect the significant scope for aggregating lessons for advocacy at the international level (see pilot recommended at country level in Burkina Faso, s.6). A positive example from staff interviews is the timely study on *Informal Justice* currently commissioned by three UN agencies, and which is anticipated to be accompanied by a DIHR strategy to maximise its impact, including at international policy level.

The need for co-ordination of DIHR initiatives with donors and their various implementing agents does need ongoing attention to ensure optimum impact of DIHR efforts. Ultimately DIHR's strongest opportunity to contribute to greater harmonisation, coordination and complementarity of aid assistance is perhaps by helping **build the in-country demand** that such principles be respected. It can do this by building upon the strength of its partnership approach (in particular when that approach is unified and systematically measured and documented).¹³⁵

The issue of salary support to civil servants in Cambodia

DIHR has been providing salary support to civil servants inside the programme management unit (now general secretariat) of the *Permanent Coordination Body at the Council of Judicial and Legal Reform* in Cambodia (part of the *Council of Ministers*), DIHR's long-standing partner since 2003/04 to draw up and implement a sector-wide reform plan. According to interviewees, this constituted a substantial proportion of their monthly income. Salary support was provided to all inside the unit – from the director to administrative staff. This was (maybe unsurprisingly) “greatly appreciated” by unit staff members at a time when other development partners who had provided supplements in the past (including Danida) were reconsidering whether this practice should be phased out to stimulate a more deep-rooted public sector reform.

The problem of low salaries in Cambodia's public sector is a widely acknowledged problem among donors.¹³⁶ Their views vary regarding how best to achieve public administrative reform objectives while at the same time advancing other sector reforms.¹³⁷ At the same time it seems the DIHR state partner in Cambodia received salary supplements from MFA Cooperation Agreement funds.

Both donors and recipient governments have recognised that the practice of donor-funded salary supplementation is something of a double-edged sword. It can lead to a number of problems such as undesirable competition among donors, distortion of development work, corruption, abuse of the process, and brain drain. It is generally believed that these problems may even threaten the ownership of the project by the recipient government. Even more important, it may also be an excuse for governments not to deal with the more contentious issue of public sector reform and restructuring of salary schemes.

In Cambodia, to boost the low pay of civil servants, a government sub-decree was adopted¹³⁸. Donors have responded by drawing up *Merit-Based Performance Incentive packages (MBPI)* to supplement a basic government contribution.¹³⁹ In March 2009, a MBPI backed by a number of development partners¹⁴⁰ (including Danida) was approved. A Danida-AusAid funded MBPI also for the General Secretariat of the Council for Legal and Judicial Reform is intended to 'take over' (to a somewhat lesser extent) staff incentives paid by DIHR up to now. DIHR staff incentives will therefore be gradually phased out.

The lack of harmonised practice – even in relation to use of Danida funds – in the past is unfortunate, in an otherwise positive partnership process. Two of the possible ways to interpret this are: (i) it demonstrates the need for DIHR to better harmonise with other development partners in order not to undermine concerted donor action (at least to ensure that Danida funds are applied in line with Danish development policy and guidelines¹⁴¹), and/or (ii) DIHR's 'context-sensitive' approach provided important support at a critical time for the government PMU, which in itself contributed to the good results achieved.¹⁴²

5.4 Mutual accountability and managing for results

This section considers mutual accountability and managing for results with organisational level M&E. Throughout the review, the quality and the results of DIHR's interventions are noted as assessed by national partners as well as relevant development partners.

The interdependent aid effectiveness principles of mutual accountability and management for results raise a number of issues for all development actors. This includes the substantive and procedural basis for such accountability and the development processes and impacts that need to be at the heart of how "result" is understood. The Accra meeting highlighted that progress on managing for results in development aid since 2005 has been modest but "*things are moving in the right direction*".

*"There is no inherent conflict between results-based management and a focus on human rights. As the OECD/DAC study has highlighted, important work has already begun to integrate human rights and results-based management, and these approaches need to be adopted more widely. Furthermore, a human rights approach to management for results can emphasise the importance of transparency and the right to information when it comes to government accountability to citizens, particularly in relation to resource allocation and public expenditure."*¹⁴³

"Accountability" and development "results" have specific meanings in the context of legal duty bearers such as DIHR. Fundamentally it means that human rights principles and standards define the results to be achieved, the strategies/methodologies required and in turn, their accountability standard for meeting those results.

The Paris Declaration sets out the need for governments to be accountable to citizens and for donors and partner countries to be accountable to each other for development results: "*The respective roles, rights and responsibilities between citizens, partner governments and donors, defined by human*

rights treaties, correspond to the underlying logic of the Paris Declaration, with donors supporting partner country governments in relation to development for all citizens."¹⁴⁴

In contexts of unequal power relations between donors and partner countries, mutuality can be misinterpreted as partner countries being required by donors to prove that partners have fulfilled their commitments. *"Where this is the case, aid relations may undermine the credibility and leadership of partner governments and their accountability to citizens."* This is an example of the importance of DIHR clearly specifying its own legal obligations, applying the human rights principle of *legitimate mutual accountability*:

"From a human rights perspective, accountability can be understood as an ongoing process of reviewing the performance of the government and other duty-bearers [including DIHR] against their human rights obligations [with]:

- *Clear identification of the standards and norms for which different actors are responsible.*
- *Monitoring, to collect information on performance.*
- *Mechanisms to allow those with responsibilities to explain and justify their performance in relation to their obligations.*
- *Processes of redress.*"¹⁴⁵

For DIHR, there are two main aspects: how does DIHR itself understand accountability and apply it in its activities; and secondly, how does it build the capacity of state partners to play their role in accountable development, and demand mutual accountability in turn, from their wider development partners.

➤ ***How DIHR applies mutual accountability***

Individual projects have varying levels of M&E systems, most of which are well developed, but organisation-wide there is inadequate systematisation and a need for a *pro-active and systematic approach* to learning from experience.

For DIHR, accountability is not only a question of showing effective use of Danish development assistance funding; it is a question of being able to show *effective contributions to improved human rights outcomes*. As part of achieving this, it needs to be able to demonstrate evidence of, and accountability for, human rights outcomes with its partners overseas – the basis of its partnerships being shared legal obligations (see s.2).

Without this, the concept of partnership, as if it were an end in itself, would be inadequately linked to DIHR accountability for its own contribution to human rights impact – even for partnership processes.¹⁴⁶ This was also noted in the 2005 Partnership review.

Strengthening these processes is essential to programming and to ensure continued relevance – *especially* when working with partners and in processes that are long-term and process-orientated.

For both DIHR and its partners, a key incentive is that they will be able to track progress, know what achieves valid results (under what conditions) - and have a more informed basis for their advocacy work influencing others to achieve more effective development. For DIHR partners, human rights based accountability by definition must encompass the strengthening of domestic accountability mechanisms – between duty bearers and rights holders. This should mean that DIHR works with partners *from the outset* to plan and design M&E to stay accountable to the human rights standards they jointly are working to achieve.

➤ **Internal results-based management (RBM) at DIHR**

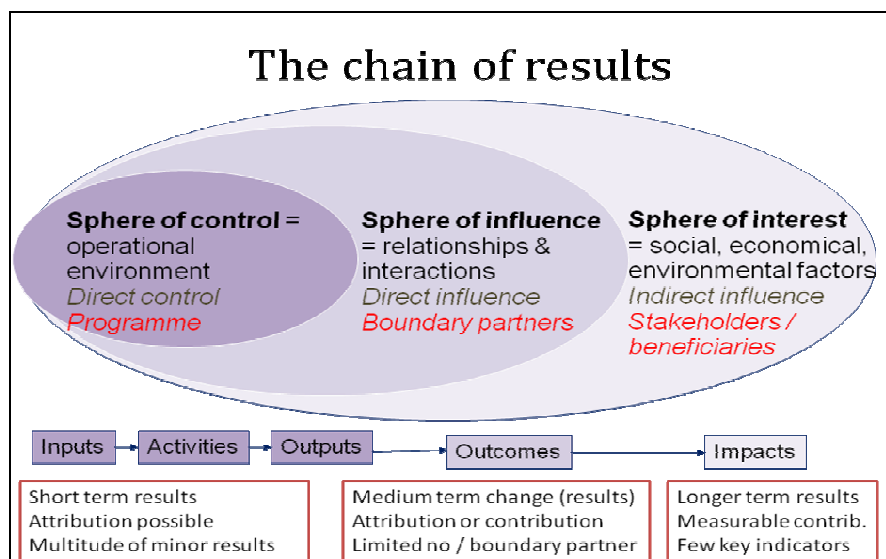
Indications are outlined throughout this report as to the quality and results of DIHR's interventions in the eyes of national partners as well as relevant development partners. There are clear results in terms of capacity built as well as potential for attitude and behavioural changes in partners. Among key perceptions of partners highlighted to the review are: high quality of DIHR support and choice of methodology; strong, positive focus on process; significant pride and ownership of outputs (e.g. Niger, Cambodia, and Malawi).

Internal RBM systems in DIHR are in general weak, and monitoring generally stops at project level. There is no cascading flow of objectives and results (in the logic of cascading 'logical frameworks') starting at the overall vision of DIHR and down through different thematic and geographic areas of operation. This means that beyond project level – or beyond programme level in the cases where more comprehensive programmes are developed (e.g. China) – there is no systematic way to aggregate results from activities at country, thematic or DIHR-wide level (as appropriate) across or within different thematic areas. This is a symptom of the challenges discussed in s.4 regarding priority-setting and implementation.

Clearly, monitoring that take place primarily in relation to project *outputs* would not do justice to DIHR's longer-term role in the partnership. For this to be tracked and visualised, more rigorous monitoring is needed that links DIHR inputs to specific methodologies, strategies and the subsequent changes it is trying to influence – whether directly (partners) or indirectly through the social change processes in which the partners engage.

Applying a longer-term and more nuanced monitoring to the processes in which DIHR engages can also link the achievement of intermediate objectives with desired human rights impacts. For instance, actual human rights impact may not currently be possible to claim in relation to DIHR's engagement in the judicial and legal reform process in Cambodia (separate from the issue of attribution). However, several of the "fundamental laws" (e.g. civil and penal code and procedural codes) now include better protection of human rights; justice coordinating organs have been established; a justice sector planning manual is being utilized by the justice sector; the official gazette is now functioning; the short- and medium-term action plan and project catalogue for the implementation of the legal and judicial reforms are intended to address human rights improvements etc. From the outset, DIHR could have tracked the changes in attitudes and behaviour of different stakeholder groups that made this possible. This would be important in order to tailor capacity support as needed. It would also enable DIHR to link contributions of its partners more closely to wider reform processes as well as the potential human rights impacts of the same (see box).

With a clearer focus on RBM and outcome monitoring, it is also possible to link interventions with desired human rights *outcomes*. Large-scale impact assessments are costly, not routinely needed, and are generally better carried out by a group of donors in collaboration with government agencies. DIHR can more clearly target and monitor its short and medium-term contributions to such desired impacts, i.e. a more rigorous results-based management system to track operations in *its sphere of control* and *sphere of influence* (see graph below).



In the dialogue notes of the Co-Operation agreement, MFA has raised the need to strengthen goals and results management within DIHR (see also next section). For example, in the October 2007 DIHR-MFA dialogue, DIHR emphasised that there were additional positive changes which were not adequately captured by the monitoring and evaluation it had in place for programmes in Serbia and Malawi.¹⁴⁷

One of the challenges to moving towards demonstrating outcomes has been the mis-perceptions expressed in review discussions regarding issues of measuring progress e.g. *'we cannot measure impact as it is only in the long term'* – or, *'we do not implement, so we cant measure impacts'*. These mis-perceptions were pointed out previously in the 2005 Partnership Review.

In contexts such as justice sector reform in Cambodia, and service charters in Malawi, DIHR is working to generate performance data, develop a reliable reporting system, and enable evidence-based decision-making.¹⁴⁸ These positive initiatives seek to:

- a. Enable stakeholders to monitor the performance, to reinforce the expectation of institutions being held accountable, and
- b. Monitor the impact of [reform] to improving performance
- c. Provide donors with data on the effectiveness of their support
- d. Provide DIHR and others with performance data for policy and managerial decision-making.

This reflects the fact that *it is not safe to assume*, for example, that enhanced 'capacity' of justice sector institutions automatically yields positive human rights outcomes. Institution-led, top-down approaches by partners can contribute to a more efficient justice sector – in which a focus on greater throughput of cases leads to more forced "confessions" by police or judges incentivised to strike out cases improperly, or increase their rates of conviction etc.

Organisational level results based management and accompanying M&E systems; tools etc need to capture all relevant elements, from changes in long-term social processes, gradual shifts in capacity of partners, as well as impact of DIHR interventions. Much can be learned from some current

programme-level M&E. However, effective organisation-wide systems are not linear and do not easily follow some of the programme-level planning and evaluation tools (such as logical frameworks).

Strengthening the M&E and thus accountability, is central to enhancing DIHR's position when demonstrating to partners and donors that processes take time but that they give proven results. This needs significant attention, reflecting MFA's own duty to be accountability for public funds, as well of course, as DIHRs'.

➤ **What to measure and tools to measure it**

In response to MFA-DIHR dialogue since 2005, research was undertaken by DIHR and a guide produced to the development of different kinds of indicators¹⁴⁹. This guide is comprehensive and weighs pros and cons for different methods and approaches. However, it is unclear who the target audience of this guide is. From staff interviews, it is not applied in-house (i.e. for DIHR's own performance monitoring), and too far removed from project-specific contexts to be widely applicable with partners. A more pragmatic approach is needed. The process of developing useful manuals has been refined by DIHR with partners, and is exemplified by the police manual developed in Niger (Text box s.2 regarding West Africa, FNIS manual). Key features of the process is to start with identifying the intended users, their needs - and involve them directly in the process, with follow-up to adapt drafts as needed based on practice with staff and partners. Practical samples should illustrate visually, with simple accessible layout and visual aids. DIHR clearly has the in-house capacity among staff to apply such methods to address its own needs.

The Cambodia case - DIHR support to the Council for Legal and Judicial Reform

In relation to **results**, from DIHR's long-term engagement in Cambodia in the area of legal and judiciary reform, the following can be noted:

- At *output level*, DIHR has intervened successfully and strategically in **building capacities of its main local counterpart** in the *Council of Legal and Judicial Reform* secretariat; providing support to strategic planning in a politically sensitive context; with ongoing technical and planning support over the last 7 years.
- At *outcome level*, DIHR has successfully **enhanced local ownership through a participatory approach** that has generated 'pride' in the sector reform plan within the government's coordination secretariat, which contributed to the Plans' adoption (when earlier TA-driven efforts by other donors failed to do so). Moreover, DIHR's intervention can be said to be **timely and complementary of other development partners** as it engaged where there was a gap for technical skills-building and management support.
- However, at an *impact level*, this support has had little to **no real impact on the human rights situation** to date, and is unlikely to have even in a medium- to long-term perspective, given the political climate. Development partners who expressed this view recognized, however, the need to build capacity from within institutions so that change is possible if and when political change is taking place. This case study calls for general DIHR reflection on minimum conditions for engagement and how to maximize its leverage for positive human rights change in politically 'blocked' or worsening human rights situations. Now moving into an implementation phase, DIHR support will be centered on helping Cambodia develop a monitoring instrument in line with national indicators; with maximum feasible stakeholder and rights-holder involvement - to broaden the process for legal and judicial reform.

Central to enhanced management for results and accountability are appropriate systems, tools and units of measurement that are in line with DIHR's long-term engagement with partners and in support of social change processes that span several years.

DIHR capacities in-house to tap into tools and support for measuring processes, outcomes etc can be significantly strengthened by ensuring *clear locus of top-level responsibility* for doing so – see s.6. To promote enhanced accountability and more systematic measurement of process and impact, DIHR requires RBM tools and indicators that (i) reflect DIHR's organisational identity, Statutory mandate, NHRI qualifying criteria and strategic objectives (geographic and thematic) and (ii) that help measure gradual shifts of human rights progress /regression over time with DIHR's specific contributions towards such change. There are a range of straightforward tools to help DIHR and its partners refine these processes, at various levels – including tools that properly reflect the central importance of relationships and processes as key results in human rights based development (e.g outcome mapping, most significant change, etc.)¹⁵⁰. Such tools could be further explored and internalised.

Programme, sector/thematic, department-specific tools need to be premised on a unifying organisational framework. DIHR plans to develop an Organizational Guide to Programme Cycle Management are an opportunity to bring greater coherence to M&E and clarity of understanding regarding managing for results. The development of this guide should build upon various programme and Department level experience and models - and an array of manuals/tools already in existence. For example, DIHR's guide addressed to civil society, which has less direct legal obligations than DIHR, sets out important elements of monitoring *process in human rights based development programming*¹⁵¹.

In general, for its own accountability for impacts, DIHR could also play a more active role in advocating regular user perception surveys in relation to justice system reform or police performance for example, adopting a more evidence-based approach to establishing baselines and monitoring outcomes with partners. In the area of social and economic rights, the service charter programme being worked on in Malawi is likely to be a positive example of working to monitor the enjoyment of economic and social rights in practice. DIHR needs to invest significantly more than hitherto to strengthen its own results-based management (RBM) systems at organisational level to ensure: (i) that it is doing *the right things*; and (ii) that it is doing those *things right*. Combined, this review seeks to reinforce DIHR efforts in this direction.

Based on its *own legal obligations*, DIHR's work would benefit from systematic incorporation of the principle of accountability as part of a human rights based partnership from the outset – so that this becomes routine, expected and a fundamental element of DIHR's own accountability systems. The importance of this cannot be underestimated in countries where DIHR work is done in the context of widespread or systematic human rights violations. The *context* is rightly emphasised by DIHR in its partnerships. Human rights obligations are a core part of that context and need to be systematically built into M&E & accountability – including identifying where DIHR work is not relevant or sustainable in terms of human rights impact.

The way to reach the end goal – e.g. through an *empowered, participatory process* (see Annex I Table 1) can in itself be an important result – as evidenced by DIHR's West Africa process of developing police manuals. The process was used to open up dialogue on previously untouched issues and build a degree of mutual understanding among state and non-state participants.¹⁵² For these *process results*, more flexible RBM tools identified above should be explored (such as Outcome Mapping looking at behaviour change over time in boundary partners, participatory social audits).

A number of DAC studies have also recently been published on '*capacity, change and performance*' to explore how capacity development can be maximised and measured.¹⁵³ These studies draw on

systems thinking for example to give guidance on developing and measuring a system-wide perspective of capacity in relation to social change¹⁵⁴.

For DIHR, applying a strengthened human rights based partnership approach, would involve planning and applying such M&E techniques with partners *to the process itself*. For example, managing for human rights based results is also concerned with consolidating *relationships*, establishing *legitimacy* or reinforcing the *interests* of vulnerable societal groups. Thus, empowered, participatory monitoring *processes*, involving different stakeholder groups, are *themselves* central human rights results to be captured through M&E systems.

- **External support by DIHR to build capacity of partners (so partners are more accountable; and in turn, better able to demand accountability from donors)**

To what extent does DIHR adopt, and promotes with partners, human rights based aid effectiveness.

Given the ‘bridging role’ it is in a position to apply in some contexts, there is particular scope for DIHR to systematically support partners and the donor community with “localised” Paris principles, including support to ensuring results frameworks that are used to assess performance are human rights based. The “*Hanoi Core Statement*” is an example agreed by donors and state actors.¹⁵⁵

Also reflecting its status, DIHR is well-placed to build its own capacity to work with Embassies in such countries to enable them to more effectively promote results frameworks that are human rights based in Hanoi, or Phnom Penh.

However, this does not seem to be a strong capacity of DIHR – and has not been an area of identified comparative advantage for its advisory role for example.

With a DIHR-MFA Co-operation Agreement reflecting more clearly DIHR’s Statute, opportunities for mutual reinforcement may arise more clearly. For example, the relationship with MFA should be itself a key comparative advantage of DIHR. Being pro-active in supporting the practical application of MFA commitment to human rights based aid effectiveness; and helping partners in these processes. This illustrates the recommended integrated Statutory roles for its international work, in strategic countries, such as Niger.¹⁵⁶

MFA-DIHR pilot support to aid effectiveness

A pilot process in a sample country such as Burkina Faso could be explored where many positive conditions are now in place¹⁵⁷: (i) The DIHR partner, the Ministry for Human Rights, is working to implement its strategic plan with a transversal role in integrating human rights across development sectors.; (ii) through to 2010, the Poverty Reduction Strategy process is being revised; as well as (iii) the UN Development Assistance Framework underway. These latter two processes are committed to applying HRBA including empowered participation with systems of accountability to HR standards. These are the national policy processes to which the aid effectiveness principles expect alignment and harmonisation for years into the future.

DIHR could in principle contribute in a ‘bridge’ role drawing: Burkina Faso partners (state & non-state); MFA (and its development counterparts in-country); business – to ‘fact-based dialogue’ regarding human rights based results frameworks for the above national processes. This would be a strategic intervention supporting the application of genuine aid effectiveness principles in partnership with MFA; ideally linked to informing Danish public debate at home – a catalytic role apt for an NHRI.

➤ **Key findings & recommendations related to aid effectiveness principles**¹⁵⁸

The Accra meeting noted the need to strengthen Country ownership and more effective partnerships. These are areas where DIHR has strong experience which can be systematised for its own work and shared with MFA. The third area that Accra highlights as needing strengthening is achieving development results and openly accounting for impact. This is an area where DIHR needs to focus far greater attention. Key findings and recommendations related to DIHR's work in relation to aid effectiveness principles are summarised below.

Key findings- Aid Effectiveness Principles ToR Objective 4	Recommendations
5.1 Ownership	
<ul style="list-style-type: none"> DIHR's emphasis and commitment to partners' (both state and non-state) ownership of development processes is <i>high</i>. Other positive factors include DIHR's interventions being: context-sensitive, using windows of opportunities to seek leverage from 'within' institutions (rather than imposing change from the outside). However, documented baselines and indicators regarding partnership in a number of long-term relationships (Malawi, Niger) were not put in place 10 years ago, so concretely <i>evidencing</i> human rights progress is more of a challenge than it might have been. 	<ul style="list-style-type: none"> More clarity is recommended regarding the basis and core principles of DIHR approaches to partnership, with systemic lessons identification, including for sharing with others. Harvesting and reflecting on those factors will be important in organisational consolidation: how to balance of being fully up to date with the wider donor community's interests and policies on the one hand, and staying at 'arm's length' from donors, including in order to promote ownership. Applying human rights based approaches should include respecting partner's <i>participation</i> in their own development as of right; and the requirement of <i>accountability</i> for impact to rights-holders should include M&E to be planned with partners from the start. It is recommended that DIHR address its evidence gap not least as its key for DIHR vis-à-vis funders who may not appreciate the time that meaningful partnership takes. This highlights the importance of DIHR influencing a wider improvement in aid effectiveness – in order that it can itself apply the insights gained from its work – more consistently
<ul style="list-style-type: none"> DIHR's bridging role (including strong process facilitation) between partners and the wider donor community, and/or between partners and their constituency base (individuals, communities) can enhance ownership. 	<ul style="list-style-type: none"> The mediating/bridging role should be enhanced by becoming a routine component of DIHR's application of human rights-based approaches. A strengthened national and regional competence base could increase DIHR's legitimacy in taking on this role.
5.2 Alignment	
<ul style="list-style-type: none"> Alignment with strategies and mandates of state and non-state partners is at the heart of DIHR's guiding philosophy of partnership. DIHR programme interventions seek to fit within partners change processes – but not all DIHR partners and programmes are integrated into wider development processes. DIHR capacity to support partners in this could be enhanced. DIHR's status as a public body and as an NHRI 	<ul style="list-style-type: none"> It is recommended that DIHR enhance M&E systems within its partnerships, so it can more systematically promote its partner's own alignment with, and influence on, human rights based national development. DIHR staff capacity should be built to support partners in this as a routine element of partnership - and to maximise DIHR catalytic role.

<p>with a clear human rights mandate offers unique advantages in promoting alignment.</p>	
<ul style="list-style-type: none"> • DIHR supports partners' systems and strategies to promote alignment with international human rights standards (including working with treaty-body recommendations, non-state actors and the private sector). This is conducive to the principles of alignment. • However, not all DIHR activity is based on partnership. S.4 above referred to the importance of a DIHR policy on consultancies and systems of supervision at organisation-wide level. From an aid effectiveness perspective the guidance should enable DIHR staff to contribute to human rights-based alignment of donor assistance. 	<ul style="list-style-type: none"> • Criteria and guidelines are needed regarding balancing the DIHR approach of working from within organisations- with ensuring greater accountability for contributions to human rights impact. As mentioned in s.4 regarding exit strategies, both criteria, and M&E to apply such criteria, should be applied to guide partnerships within international human rights standards. Explicit mention of DIHR's <i>own obligations under international law, and as an NHRI</i>, in project documents and in partnership agreements – would also reflect its own need for enhanced results based management. • A systematic approach to alignment across <i>all DIHR activities</i>, including consultancies, is required.
<p>5.3 Harmonisation & donor co-ordination ToR objectives 4.3 and 3.1</p>	
<ul style="list-style-type: none"> • More collectively effective aid assistance through greater harmonisation and coordination is a challenge for all development actors. A number of features of DIHR's activities contribute to this collective effort. With human rights based approaches to development, as the shared framework for DIHR, its partners, MFA, other bilateral and multi-lateral actors - the universality and legitimacy of the human rights framework is a clear aide to harmonisation of DIHR's contribution to development assistance. • DIHR works in close collaboration with a range of development partners (bilateral and multilateral) and is often appreciated for playing a 'bridging role'. However, where DIHR practices differ from others, it has not always been clear in seeking to influence others– through research, publications, or policy advice. • DIHR's strongest opportunity to contribute to greater harmonisation, coordination and complementarity of aid assistance is by helping build the in-country demand that such principles be respected. It can do this by building upon the strength of its partnership approach. • Co-ordination with MFA seems to work well, and a more systematic approach to its Statutory advisory role should help optimize the potential for mutual reinforcement in policy dialogue with MFA and other donors (see s.3 comparative advantage). 	<ul style="list-style-type: none"> • DIHR should play an important role in promoting harmonised development assistance that is in line with human rights norms in a particular country context, or in a particular thematic area. DIHR's partnership approach, once strengthened, is a key opportunity for this and for realisation of the aid effectiveness principles generally. Where needed, DIHR empowerment of partners should enhance understanding among, and demand by, its partners that human rights norms be respected through harmonised donor action. DIHR should ensure staff are themselves empowered to do this. • Influencing other international and development actors should be a key strategic objective of DIHR to reflect the strength of its 'bridge' role; and to reflect its significant scope for aggregating lessons for advocacy at the international level (e.g disseminating knowledge generated by DIHR's M&E system regarding what is shown to <i>work in</i> policy briefs). This recommendation is illustrated using a hypothetical pilot process of DIHR convening 'fact-based dialogue' in Burkina Faso to advance the application of aid effectiveness principles.

5.4 Managing for results & mutual accountability	
<ul style="list-style-type: none"> • For DIHR, there are two main aspects: how does DIHR itself understand accountability and apply it in its activities; and secondly, how does it build the capacity of state partners to play their role in accountable development, and demand mutual accountability in turn, from their wider development partners. • Individual DIHR ‘projects’ have varying levels of M&E in place, most of which are well developed, but organisation-wide there is a need for a proactive and systematic approach to learning from experience. • Misperceptions among staff e.g that the long-term nature- and partnership approach itself- ‘prevents’ DIHR from a more active role in monitoring its contributions to human rights change. • It is not safe for any actor to assume, for example, that enhanced ‘capacity’ of justice sector institutions automatically yields positive human rights outcomes. Institution-led, top-down approaches by partners can contribute to a more efficient justice sector – in which greater throughput results in forced “confessions” by police, judges incentivised to strike out cases improperly, or increase their rates of unfair conviction etc. • Strengthening M&E and accountability are central to enhancing DIHR’s position in order to demonstrate that <i>effective</i> processes take time. 	<ul style="list-style-type: none"> • There is scope to refine and reinforce DIHR’s obligation of accountability through more effective M&E of its own contributions. This enhancement of capacity needs to address both results relating to process of its development interventions and their human rights impact. • As recommended by previous Thematic Reviews, DIHR should implement a more rigorous results-based management system to track activities in its sphere of control and sphere of influence. DIHR should empower staff regarding RBM and more clearly target and monitor its short and medium-term contributions to desired impacts. • For DIHR partnership, human rights based accountability by definition should encompass the strengthening of partner’s domestic accountability mechanisms – between duty bearers and rights holders. This should mean that DIHR works with partners from the outset to plan and design M&E to stay accountable to the human rights standards they jointly are working to achieve.
<ul style="list-style-type: none"> • Various existing research and guidelines on M&E systems developed by DIHR have been successfully used in programme-level training with partners, but systemic Results Based Management and M&E systems to measure this has not yet been realised within DIHR. • There are a range of straightforward tools to help DIHR and its partners refine these processes, at various levels – including tools that properly reflect the central importance of relationships and processes as key results in human rights based development (e.g outcome mapping, most significant change, etc.). 	<ul style="list-style-type: none"> • Central to achieving organisational consolidation, DIHR should develop and apply RBM systems & M&E tools and indicators that (i) reflect its organisational identity, Statutory mandate, NHRI status and strategic objectives (geographic and thematic), (ii) that help measure gradual shifts of human rights progress /regression over time, and (iii) measure DIHR’s specific contributions towards such change. • DIHR needs to invest significantly more than hitherto to strengthen its own results-based management (RBM) systems at organisational level to ensure: (i) that it is doing <i>the right things</i>; and (ii) that it is doing <i>those things right</i>. • A <i>clear locus of top-level responsibility</i> for doing so is a starting point, along will allocated resources (see s.6)

6. Organisational consolidation

Drawing together the findings and recommendations of the overall report, this section identifies key signposts for taking forward a process of organisational consolidation, already underway, and which the review recommends be supported.

The restructuring in 2008 does not appear to have started from an analysis of the vision of the organisation (based on identity, legal status, Statute and comparative advantage); and the management systems/processes needed to support that. Many of the findings and recommendations of this review relate to the need for strengthened organisation-wide management systems and procedures. These would unify more effectively the Departments' activities of all kinds with top management decision-making and, in particular, maximise DIHR's comparative advantages through systematically documenting and learning from evidence of their impact.

This involves strengthening:

- Processes for policy making, and the development of doctrine for the organisation as a whole.
- Cohesion of organisation policy and staff guidance on DIHR's status and comparative advantages as a public body, as an NHRI - and its own implementation of, and advice to others regarding, human rights based approaches to development.
- Processes of strategic planning and implementation across the organisation; including partners, based on clearly communicated understanding of DIHR as a legal duty-bearer.¹⁵⁹
- Assessment of proposals for activities (including consultancies) against core organisational standards (law and legal status, policy, doctrine, strategic priorities, comparative advantage) as well as elaborated criteria for undertaking *proposed activity* of any kind (relevance, efficiency, effectiveness, sustainability and impact)
- M&E processes at project, programme, country and organisational levels. This includes supporting processes of developing the required tools that meet minimum standards, such as the express and accurate application of the legal framework - and tracking their application in practice. This strengthening needs to encompass the full PCM cycle: from start-up phase (partnership terms and conditions with shared understanding of expected human rights impacts etc); continuing through implementation stage; to phase-out support to programme teams (assessing against benchmarks previously agreed with partners); and the cycle begins again, moving from lessons identified to lessons learned.

The organisational gap has been variously described in review discussions as relating to '*the DIHR digestive system*' or '*the engine*'. These terms signify how a specifically mandated, resourced mechanism with high level management authority is central to enhanced organisational cohesion at delivery level.¹⁶⁰

The central purpose of such an 'engine' is to *strengthen the basis of key decision-making processes* for top management and governance bodies; and strengthen *performance of the organisation* at all stages of the 'programme cycle'. Needless to say this is *not* to promote a one-size-fits-all approach to different thematic areas or jurisdictions - but without a central unifying process, maintaining strategic direction, effectively selecting and following priorities, maximising/measuring impact - being cost effective etc is likely to be a challenge.

The identified gaps in organisational-decision-making are related to, but *distinct from*, the 'cheer leader' model being tested for information-sharing and co-ordination across Departments, in itself an important need. Here, the "engine" is concerned with processes for channeling, processing and applying information for more rational prioritisation by the organisation - and *tiered responsibility* for following such prioritization.

A key aspect of the recommended organisational 'engine' is the processing of (i.e. learning from) **lessons identified and ensuring institutional memory**. In addition to its own staff, DIHR has a valuable asset, built over time, in its network of partners, trainees etc (referred to in s.3 regarding comparative advantages). Currently, the importance of pooling experience is acknowledged by the (weekly) HQ *presentations* by staff. However, while participants as individuals or programme teams are informed by, and learn from, these – it should not be assumed that DIHR has done likewise *as an organisation*. Shared staff briefings are important but are not of themselves organisational learning. Feedback and ideas need to be encouraged more, systematically gathered, processed and factored into the framing of future doctrine, documents, tools, training etc - so that innovation is routinely tested, applied, and fed back on from practice and transferred across the organisation, thematic areas and jurisdictions. Without systematic feedback from staff into an organisation-wide M&E system, individuals or groups of individuals remain closed learning cycles – others outside that cycle do not benefit from lessons - and lessons are lost to the organisation as a whole - including when staff leave.

One of the weaknesses we have at DIHR is that so many people are working solo on different projects, strategies etc. - and one person can simply not analyse, see or do everything.

- DIHR staff member email

Internal reviews also occasionally take place, sometimes at the initiative of programme staff. These are not routine and their results are not captured centrally. *They can lack independence or distance from the work being evaluated; are not linked to individual or organisational accountability for performance. There is a lack of an identifiable follow-up mechanism that is responsible to ensure implementation of needed changes over a defined time period.*

The plans of the Education Unit (future Department) are positive in contributing to assessing individual staff learning needs for individual competence development.¹⁶¹

In any organisation, some opposition to learning processes *per se* is to be expected because learning involves change that can be disruptive, add to or remove responsibilities etc – and there has already been considerable change in DIHR since 2008. Key features of a learning organisation are reflected in the approach to this transition phase which DIHR is working to apply: encouraging innovation and enhanced accountability.

The fact that individuals and teams within DIHR have extensive knowledge and expertise is evident from interviews of staff and partners. But this does not necessarily equate to a codified, systematic and communicated organisational learning process – designed to encourage and facilitate the questioning of assumptions, policies or practices in order to replicate or modify as appropriate. These are the features of **ongoing systemic organisational learning** and it is this, which the review finds is needed.

Three levels of organisational learning¹⁶²:

- **Individuals:** Individuals learn to do their job better, within the framework provided by the organisation's mandate, mission, policies, organisational culture, work processes, regulatory frameworks and resources. Such learning will help the organisation to perform better, as individual staff members optimize their own contributions. Sometimes 'unlearning' is needed, i.e. a conscious individual confrontation of set beliefs and 'organisational history' to prepare the ground for new thinking and innovation.
- **Work processes:** Individuals may help to modify the design of the work processes and regulatory frameworks themselves. This may improve the way in which their work is organized and hence help the organisation to perform better.
- **Organisational core:** The third level is the point at which learning touches the very core of the organisation, affecting its institutional values and principles, as reflected by its organisational culture, its mission and/or long-term and short-term policies. Where this happens, the organisation actually changes as a result of the learning process. Such learning never occurs in isolation, but within the system in which it operates, and together with partners and stakeholders who are part of the same learning system.

DIHR needs a clear **locus of responsibility for learning** and the pro-active creation of a learning and questioning culture within the organisation. It is understood that increased support to strengthening core management systems is likely to be prioritised by DIHR in its CAA application under the framework agreement. The review identified commitment and capacity to achieve the vision set out in the June 2009 draft Strategic Framework that *"through a process of consolidation and development" it will emerge as a leading National Human Rights Institution on the global human rights scene*". The immediate means to realise this vision is an organisational consolidation process that addresses the issues identified in this review. Resources in terms of funding and time are essential to ensure this transition phase is successful in harvesting the best of the 'pioneering' stage of DIHR, for its future role.

Sample Organisational Learning potential from West Africa

- **Complementarity:** Limited reference in West Africa strategy to what others (donor partners, UN agencies etc) are doing or planning. As such, strategic entry points are not always based on a full understanding of gaps, duplication, key comparative advantage, opportunities for mutual reinforcement. In practice, these issues of complementarity and harmonisation vary with different country contexts, and are applied unevenly within DIHR (s.5). There is scope to ensure that such capacity of staff and partners is consistently raised DIHR-wide with awareness of other actors' (EC, WB, UN agencies, trans-national corporations) legal and policy commitments; and the entry points to advance human rights based approaches (from poverty reduction strategies and UNDAF's; through to OECD Guidelines on Multi-national enterprises, and its complaints mechanism¹⁶³).

- **Integrated DIHR approaches:** The West Africa planning base rightly identifies the influence of a militarised understanding of security and anti-terrorist interventions; and also the influence of extractive industries. The strategy itself focuses on programme-level, and draws on expertise from a number of Departments. However, the full range of entry levels available to DIHR could reinforce activities at programming level if approached systematically. These include scaled-up opportunities for addressing issues such as these at policy level (through DIHR Statutory advisory role); drawing on all DIHR expertise from HR&B; and to Danish Public Education.¹⁶⁴ This is not to suggest that the same integrated interventions should always be required, but rather that there should be routines of DIHR-wide planning for *optimum combinations of interventions*.
- **Accountability:** The West Africa Unit is identifying ways to strengthen accountability systems (concerning immediate results, outcomes and longer-term impacts to be strengthened with partners)¹⁶⁵ to strengthen the design and planning lead-in process *before partnership contracts are signed with DIHR*, to prepare for joint partnership M&E.

6.1 Organisational learning – suggested next steps

DIHR is capable of facilitating a process of strategic visioning based on legal identity and identified comparative advantage (such as the process supported with the Ministry of Human Rights in Burkina Faso) – and then on that basis looking at the structures and processes needed.

‘Learning’ is sometimes equated with taking in information classroom-style, or with the mere compilation of experiences. Learning is not a product suddenly unveiled for all the world to see, it is a **process**.¹⁶⁶ It presents staff with real issues from their work and invites better solutions (it is vital that learners connect what they learn with what they actually do). Learning requires a cyclical process of inputs, analysis, outputs, dissemination and auditing. Managers need to *promote learning* so that it gradually emerges as part of an organisation’s culture. Learning is not an occasional exercise, or an indulgence, but a continuous necessity for DIHR. The process should encourage thinking ‘outside the box’ which questions assumptions and habits of DIHR and re-establishes first principles.

➤ **Next steps:**

1. *A small team is needed to catalyse and ensure processes of organisational consolidation and learning, led by a top manager reporting directly to the Director (above Department-level is needed).*
2. *The on-going learning cycle: involves analysing a broad range of data (inputs) to identify trends and issues requiring improvement; proposing concrete solutions; pilot-testing their application; following through in support of implementation; as well as auditing the outcome.*
3. Thus, beyond the individual learning needs of staff in the organisation as a whole¹⁶⁷, there is a need for consolidation of the organisation’s learning systems. A range of voices (*inputs*) are needed and must be *actively sought out and developed*, beyond the routine feedback from staff, at headquarters and *in-country* contexts (e.g partner input of priorities, views, suggestions, proposals and evaluations from both state and non-state actors; partner MFA, bi-lateral, UN and other international agencies, research networks). The learning cycle is *outward looking* – for open, self-critical learning.

4. The small team should be *pro-active facilitators* to strengthen the link between actual experience, ‘digestion’ of that experience as an organisation – and the ‘engine’ – the pro-active support to top management decision-making for adaptation of policy, methodology guidance, recruitment, training as needed.¹⁶⁸ Follow-through to test the new approach as part of *on-going learning*. It is key that a mixed discipline team need to be valued for their support to making work better by staff, while not being involved in implementation of programmes themselves.¹⁶⁹ Low cost solutions should be sought e.g exchange of people to also enhance exposure to fresh ideas. The team would play a cross-cutting role addressing all strategic areas, all departments, all programmes to enhance quality, consistency, cohesion.
5. **Implementation:** The team will not produce reports or recommendations or run training workshops as ends in themselves. Far more attention is needed to the facilitation of the learning process and ongoing communication with staff. It is expected to achieve change as well as developing the mechanisms to measure it. A lesson is not merely the compilation of experience – a lesson is a decision to improve an existing situation, **which is only learned once it has been effectively acted upon.**
6. To do this, the team must seek to fulfil **both** the functions of lessons learning and accountability – finding an effective balance between institutional development facilitator and auditor. It must have appropriate authority, credibility and resources.

In order to develop credibility, it is essential that it have a high degree of both independence and authority in-house. This includes being mandated by, and reporting directly to, the Director, clearly working with his authority, and providing input directly into policy discussion **This cycle is a continual process, which involves all staff, and encourages a questioning and learning culture.**

7. **Pool learning with others system-wide:** An effective learning process would enhance DIHR credibility with others.

5.6 Key Findings – Organisational consolidation	Recommendations
6.1 Organisaional consolidation	
<ul style="list-style-type: none"> • It is understood that increased support to strengthening core management systems is to be prioritised by DIHR in its CAA application under the framework agreement. This is likely to enhance a range of issues including more effective choice and application of strategic priorities. 	<ul style="list-style-type: none"> • Resources in terms of funding and personnel are essential to ensure the current transition phase successfully harvests the best of DIHR’s ‘pioneering’ stage, to enable it move towards establishing an on-going process of organisation learning.
6.2 Organisational learning – suggested next steps	
<ul style="list-style-type: none"> • The extensive knowledge and expertise of individuals and teams within DIHR is evident from interviews of staff and partners. This has not been optimally translated into a codified, organisational learning system – that encourages and facilitates questioning of assumptions, policies, and practices. 	<ul style="list-style-type: none"> • Ongoing strengthening of core management functions needs to include a clear locus of responsibility for proactive fostering questioning and learning as part of priority setting, RBM, and M&E based on consistent application of its core identity and comparative advantage.

Annex I: Terms of Reference

1. Background:

In accordance with the Strategy for Danish Support to Civil Society in Developing Countries thematic reviews of the framework organizations will be undertaken to enhance the substantive dialogue between the Ministry of Foreign Affairs (MFA) and these organizations. The reviews should be undertaken in a way that ensures a continuous dialogue during the process. In the on-going dialogue with the Danish Institute for Human Rights (DIHR), it has been decided to carry out a review during spring and summer 2009 to follow up on the discussions on a.o. focusing activities and documenting results in the international development work. The conclusions and recommendations from this thematic review will provide an input to the presentation for the Board of the annual grant for DIHR in autumn 2009 and for the revision of the cooperation agreement between MFA and DIHR regarding activities relevant for Danish development cooperation of January 1, 2006.

2. Presentation of the organization:

The Danish Centre for Human Rights was created in 1987 by a widely supported parliamentary resolution. The resolution states that the centre shall be an independent institution within the field of human rights. In 2002 the centre was merged with four other institutions under the aegis of the Danish Centre for International Studies and Human Rights (DCISM). What is now called Danish Institute for Human Rights (DIHR) constitutes one of two independent pillars under the Danish Centre for International Studies and Human Rights. DIHR carries the mandate as National Human Rights Institution according to the UN Paris Principles and a specific mandate as a Specialized Equality Body under the EU Directives on Equal Treatment.

The overall objective of DIHR is to promote and protect human rights. The primary focus of the international mandate is on promotion and cooperation. DIHR promotes and develops knowledge about and respect for human rights in legislation, administration and practice. DIHR promotes human rights research and acts as a catalyst for the realization of human rights. The institute aims to strengthen initiatives which promote the fulfillment of human rights in relation to a wide range of target groups, including parliaments, the civil service, courts, research institutions, educational systems, national human rights institutions, NGOs, intergovernmental organizations and business community nationally and at global level.

DIHR's strategy 2009-12 is based on the Rights, Research and Reality (RRR) approach. The elaboration of the strategy has taken place during 2007-08. The strategy is therefore not yet fully entrenched in all activities. The power of the RRR lies in the interplay between the three R's, the combination of rights, research and reality. The rights dimension is operationalized as human rights, the research dimension as the effort to base human rights implementation on knowledge and evidence, and the reality dimension as an emphasis on a contextual implementation of human rights nationally.

3. Funding:

The major part of activities carried out by DIHR is financed by funds from MFA (approx. 63% approx.) 30 % from the annual grant and 33 % from individual contracts with MFA departments and embassies. A growing part of international funding is from other donors, EU, and research funding. Since 1997 a cooperation agreement with MFA has been the strategic basis for this work specified in a rolling 4 years plan. The purpose emphasized in the original agreement was to strengthen the Danish effort to promote and protect human rights and democratization, and to create closer ties

between MFA and the Institute. The latest revision of the agreement took place in January 2006. The cooperation is guided by regular meetings between MFA and DIHR where some of the issues raised during the last couple of years have been the need for a continued increased thematic and geographical focusing of activities, further development of indicators and strengthened management by result. The amounts allocated under the Framework agreements have remained constant during the last three years, while DIHR has obtained funding from other external sources to a growing degree during these years.

4. Objectives of the review:

The overall objective of the review is to further optimize the efforts carried out by DIHR to promote and protect human rights in developing countries.

The immediate objectives of the thematic review are to:

1. Analyse and assess the efforts carried out by DIHR to achieve a further thematic and geographic focusing of activities financed by funds from MFA including assessment of the relationship between geographic and thematic focusing.
2. Analyse and assess efforts carried out to apply a regional approach.
3. Analyse and assess comparative advantages, capacities and achieved results of DIHR in the areas chosen as strategic priorities (freedoms and participation; access to justice and equal treatment; the rule of law; human rights and business).
4. Analyse and assess how DIHR applies the aid effectiveness principles on alignment, harmonization, ownership, donor coordination and management by results in activities in developing countries.
5. On the basis of the findings and assessments provide targeted recommendations with a view to optimize efforts carried out by DIHR to promote and protect human rights in developing countries.

5. The scope of the review will include:

1) An examination of the efforts carried out by DIHR to achieve a further thematic and geographic focusing of activities

1. What have been the developments in the thematic focusing of DIHR over the past two years;
2. What have been the developments in the geographic focusing of activities over the past two years, including an overview of target countries and regions over time, irrespective of funding sources;

2) An examination of the efforts of DIHR to establish a regional approach

1. What are the main principles in the regional cooperation models pursued by DIHR;
2. What are the main outputs and outcomes obtained at the national and regional levels;

3) An examination of the comparative advantages and capacities of DIHR

1. How do interventions of DIHR complement those of other development and human rights partners;
2. How are the quality and the results of DIHR's interventions, including special DIHR methodologies, assessed by national and regional partners as well as relevant development partners;
3. To what extent are interventions supported by DIHR contributing to the implementation of recommendations emanating from international human rights reporting systems;
4. What are the opportunities for increased cooperation and strengthening of synergies between DIHR and DIIS, in particular in regard to work carried out on fragile states and situations.

4) An examination of the application of the aid effectiveness principles in developing countries

1. To what extent are the activities of DIHR's aligned with the strategies and activities of their state and non-state partners, and to what extent does DIHR support contribute positively to the strategic development at local level.
2. To what extent do the state and non-state partners of DIHR have ownership to the interventions supported by DIHR, including the issue of their sustainability;
3. To what extent are the interventions supported by DIHR harmonized and coordinated with other relevant development partners' activities including co- and parallel funding;
4. How are tools for management for results applied, including the development and use of result oriented indicators.

5) On the basis of the findings and assessments provide targeted recommendations with a view to optimize efforts carried out by DIHR to promote and protect human rights in developing countries.

When assessing these issues, the review team should pay specific attention to the follow-up on the conclusions from the annual dialogue meetings between DIHR and the MFA in 2007 and 2008/09,

including an assessment of how the interventions financed by MFA funds are inter-acting with the activities financed by non-MFA funds.

6. Method of work:

The review will be based on a combination of desk studies, interviews with relevant resource persons in Denmark and abroad as well as field studies in a maximum of three countries/regions, including interviews with national and regional counterparts as well as relevant development partners.

An international reference group consisting of four-five persons with a renowned expertise in international human rights work will, furthermore be established with a view to validate the draft review report.

The review shall commence with an inception phase, during which the team will develop a specific action and work plan for the review, including a description of the specific approach and methodology to be used by the team, an identification of preliminary working hypotheses and specific review questions, the geographic focus for the desk study (cases) and the validation of countries/regions for field study. The elaboration of the specific action and work plan shall be based on the ToR, interviews with relevant DIHR and MFA staff, as well as initial desk studies.

The specific action and time plan (inception report) will be validated at an inception workshop organized by the consultancy team and involving relevant DIHR and MFA staff. In addition, the reference group will provide written comments to the inception report.

The inception phase will be followed by further targeted desk studies as well as field studies in West Africa and in Cambodia. The field studies shall in particular test the findings and hypotheses following from the desk study.

After the conclusion of the desk and field studies, a draft report shall be produced and discussed at a final workshop with the presence of the external reference group, DIHR and MFA staff.

7. Composition of review team:

The review will require a balanced team with overall knowledge of the international work on human rights; how they are promoted by development cooperation; the working conditions for actors involved in the field as well as overall knowledge of current development assistance approaches.

The team will consist of two-three persons who must cover the following competencies:

- Substantial normative and practical experience in the field of human rights from a cross-disciplinary perspective-
- Profound expertise in the field of current development assistance procedures and detailed knowledge of internationally recognised procedures for development assistance and experience from organizations administrating and implementing development projects.
- Competences within the strategic priorities of DIHR (freedoms and participation; access to justice and equal treatment; the rule of law; human rights and business).
- Knowledge of and working experience with the regions and countries targeted for the field studies are an advantage.

- Combined fluency in Danish, English and French language skills is a prerequisite.

8. Outputs:

1. An inception report (specific action and time plan) providing a description of the specific approach and methodology to be used by the team, an identification of preliminary working hypotheses and specific review questions, the geographic focus for the desk study (cases) and the validation of countries/regions for field study.
2. An inception workshop to validate the inception report (specific action and time plan).
3. A draft report.
4. Workshop with reference group of external experts on human rights that will discuss the findings and comment on the recommendations of the draft report
5. Final report including findings, conclusions and recommendations that will not exceed 50 pages and that will form the basis for a revision of the cooperation agreement with DIHR and the appropriation approval process in autumn 2009.

9. Timeframe:

The review will take place between April and September 2009 and is expected to consume a maximum of 18 man-weeks.

Actions	Date	Responsible	2009					
			April	May	June	July	Aug	Sep
Initiation of Review	April	Review Team	■					
Inception Phase	April	Review Team	■					
Present Inception Report to DIHR and MFA	April 30th	Review Team		■				
Inception Workshop with DIHR and MFA	Mid-May	Review Team		■				
Further desk studies	May to June	Review Team		■	■			
Field visits	June	Review Team			■			
Drafting Report	June to July	Review Team			■	■		
Present Draft Report to MFA	August 7th	Review Team					■	
Workshop with DIHR, MFA and reference group	End-August	Review Team					■	
Deliver Final Report to MFA	Sep 14th	Review Team						■

10. Literature:

Alston, Philip and Mary Robinson (eds.): Human Rights and Development, Towards Mutual Reinforcement. Oxford University Press 2005

Boesen, Jakob Kirkemann; Andersen, Lisbeth Garly; Lindsnæs, Birgit: Toward partnerships: working in partnerships with the Danish Institute for Human Rights, IMR 2007

Boesen, Jakob Kirkemann; Martin, Tomas: Applying a rights-based approach: an inspirational guide for civil society, IMR 2007

Castellani, Francesco; Nielsen, Henrik: People's access to rights in Liberia: Danish Institute for Human Rights (DIHR) Mission to Liberia 6-15 September 2006, IMR 2007

Cooperation Agreement between MFA and DIHR on activities regarding Danish development cooperation, January 2006

Cooperation Agreement – Application 2008 (2009-2012)

Foresti, Marta; Booth, David; O’Neil, Tammie: Aid Effectiveness and Human Rights: Strengthening the Implementation of the Paris Declaration, Overseas Development Institute, London, 2006

Jacobsen, Anette Faye (ed.): Human Rights Monitoring. A Field Mission Manual, Martinus Nijhoff Publishers, 2008

Jensen, Mads Holst: Promoting human rights and business in China, Human security and business, 2007

Kjærum, Morten: National human rights institutions: a partner in implementation, i Müller, Lars: The first 365 days of the United Nations Human Rights Council, S.N. 2007

Lindsnæs, Birgit; Sano, Hans-Otto; Thelle, Hatla: Human rights in action: supporting human rights work in authoritarian countries, i Bell, Daniel A; Coicaud, Jean-Marc: Ethics in action, 2007

MFA: Democratization and Human Rights for the Benefit of the People. Strategic Priorities for Danish Support for Good Governance.

Piron, Laure-Hélène; Human rights and poverty reduction. The role of human rights in promoting donor accountability. Overseas Development Institute and Rights in Action, London 2005.

Sano, Hans-Otto: Does human rights-based development make a difference? i Casting the net wider: human rights, development and new duty-bearers, Intersentia 2007

Strategic Framework for DIHR’s International Partnership Programmes for the Promotion, Protection and Fulfillment of Human Rights (a more recent version)

Note: for ease of reading this report, these annexes are provided separately

Annex II Meetings

and

Annex III - Key DIHR-MFA documents consulted

Annex IV:

Principles of human rights based approaches to development

➤ Checklist for public bodies in international development

Each of the principles outlined in the **Table 1** below is a distillation of well-known treaty standards that Denmark and most developing countries have in common. In a clear and useful publication addressed to civil society, the Institute distinguishes between the legal responsibilities of state actors, such as itself, to apply those principles, and the moral duties of non-state actors (which the state must regulate to ensure no abuses of human rights). Treaty standards can readily be presented in any number of principles, the key issue is ensuring they are being applied in practice, including in all stages of programming, consultancies etc.¹⁷⁰

- ✓ 5 core legal principles, distilled from the international treaty standards that underpin each one. As such, they are minimum standards, and states are encouraged to evolve to higher standards. Key: *what is the nature of the undertaking when a state becomes party to a human rights treaty?*
- ✓ The principles are not ‘new’ and are not a ‘fad’. They are legal obligation since UN Charter Article 1 – reinvigorated for example by the Vienna Declaration, the 1997 UN policy commitment to ‘fully integrate’ human rights into all its work; and the Common Understanding agreed across the UN system in 2003.¹⁷¹
- ✓ Each principle builds on, and is dependent upon, the others (including for example accountability for applying all 5 principles)
- ✓ All 5 principles must be applied for if activities etc are to be properly described as being based upon a human rights approach. Otherwise activities etc represent some other approach
- ✓ ‘Approaches’ – reflecting the fact that human rights law sets out the result to be achieved, and it is for each state to choose its path – so long as the process itself respects human rights
- ✓ The human rights framework applies both to the processes and impacts of development – such as the right to empowered participation
- ✓ HRBA not RBA, to avoid confusion with national law (‘citizens’ have ‘rights’ under national law)

➤ Where human rights based approaches are not being applied

There are contexts where it is not feasible for DIHR or other actors to apply an aspect of these principles, e.g where express use of human rights language in framing objectives (and therefore

baselines and indicators) is a challenge. In such contexts, the assessment of whether it is still possible for the activity to be relevant, efficient, effective, sustainable and impactful is extra important. The issue of whether activities can have a positive or negative *human rights impact* when the language and concepts cannot be directly is at the heart of “do no harm”. A decision that a risk (e.g of irrelevance) is manageable, should include a strategy for actively moving towards human rights based approaches. In the meantime, to avoid watering down the meaning of ‘human rights based approaches’ - partners, funders etc should be clear that programmes are *moving towards* being human rights based. This distinction reflects the fact that even where human rights based approaches are a challenge, it does not alter the applicable law.

Many development actors, similarly obliged to apply HRBA, have developed strategies for difficult contexts including forming coalitions with others to maximise leverage towards enabling such approaches to be applied. Where some actors have self-interest in denying the legitimacy of human rights, organisations proactively seek more accessible entry points – and for public bodies like DIHR – drawn on their comparative advantage of being legally bound themselves, to employ HRBA in dialogue with “negative forces”.

➤ **Relationship of Human Rights Based approaches to development to the Paris declaration on aid effectiveness principles** (reviewed in s.5 of the report).

These policy principles of ownership (state and non-state actors), mutual accountability and management for results are already captured within the legal framework which requires higher standards than the OECD policy sets out (summarised in Table 1).¹⁷² For the other aid effectiveness principles (alignment, harmonisation & donor co-ordination), these methods may help achieve human rights results– but not in all contexts. These methods are to be pursued if, and insofar as, they contribute to advancing positive human rights change e.g donors are not expected to align with state policies that violate human rights.

Core legal principles	Sample application in practice
<p>1. Expressly apply human rights framework (includes RBM i.e these are the results to be achieved, including process results)</p>	<p>✓ Define the goals of all development (programmes, consultancies, studies, research) in terms of the relevant international human rights commitments of the relevant states and non-state partners. This necessarily includes:</p> <ul style="list-style-type: none"> ○ Explicitly, & accurately, taking HR obligations (summarised by these 5 principles) at every stage of natl & local development processes: from identification of needs, policy-programme identification, implementation, monitoring and evaluation – as well as the identification and establishment of partnerships. ○ The human rights standards regarding partnership processes are themselves results to be monitoring and evaluated for their application of the 5 Ps ○ Addressing the full spectrum of indivisible, interdependent and interrelated rights as such: civil, cultural, economic, political and social. ○ Building the capacity of public reps, staff/civil servants, local officials to apply HR framework in their work (e.g. through recruits, training, advice).
<p>2. Empowerment¹⁷³ (includes DAC P Ownership)</p>	<p>✓ Ensure policies and programmes are based on empowerment, reflecting mutual human rights obligations - not charity. This means ensuring partners have the power, capacities (including education and information) as well as access needed to improve their own communities and influence their own lives; and the capacity to demand human rights based partnerships from others who share that legal framework (from UN agencies to bi-lateral development partners).</p> <p>✓ Ensure that rights holders and duty bearers share a common understanding of human rights goals and the duties to respect, protect and fulfil them. This may mean systematically educating and raising awareness of Government, public representatives, civil servants, service providers and other duty bearers – including development education within Denmark to raise public awareness.</p>
<p>3. Participation (includes DAC P Ownership)</p>	<p>✓ Ensure participation is active, free, and meaningful, as of right – not because it is a ‘gift’ from a partner who sees it as good practice. This includes communities, civil society, minorities, women, children and others - mere formal consultation is not sufficient.</p> <p>✓ Ensure that programming, policy discussions, natl & local development processes and institutions are accessible; & info is transparent and timely.</p>
<p>4. Non-discrimination & vulnerable groups</p>	<p>✓ Address, as a priority, discrimination & protect vulnerable groups. Who is vulnerable here and now is answered on national and local levels.</p> <p>✓ Ensure official data is disaggregated, by race, religion, ethnicity, language, sex, migrants, age and any other category of human rights concern.</p> <p>✓ Ensure gender-proofing is part of the wider human rights-proofing of all programming (noted in principle 1. above). Gender-proofing assesses the implications for women and men of any planned action, including policies, legislation and programmes, in any area and at any level (particular attention to the "feminization" of poverty, its causes and remedies).</p>
<p>5. Accountability (includes DAC P Ownership; includes RBM)</p>	<p>✓ Apply, with partners, <u>HR impact assessment</u> to programmes to determine progress in human rights terms. Identify baselines and indicators drawn from the legal framework: translating universal standards into benchmarks for measuring progress in the context and enhancing accountability</p> <p>✓ Identify both positive obligations of duty-holders (to protect, promote and provide) and negative obligations (to abstain from violations) of the full range of relevant actors, including local authorities and private companies.</p> <p>✓ Identify self as duty-bearer; claim-holders (and their entitlements) and corresponding duty-holders (and their obligations).</p> <p>✓ Dev institutions, admin procedures & mechanisms of redress that ensure delivery of entitlements, respond to denial/violations & ensure accountability.</p>

¹ *International Council on Human Rights Policy, Assessing the Effectiveness of National Human Rights Institutions*, 2005. Published with Office of the High Commissioner for Human Rights, Introduction, p.4

² 'Implementation' of human rights internationally is what DIHR 'shall' work on, point 10 of its Statute, Denmark/Act No. 411 (06.06.2002).

³ It is understood for the purposes of this review that DIHR uses the term 'International programmes' to mean only those programmes relating to non-EU countries. However, it is noted in s.6 that the future integrated M&E system for the organisation should address all of its work in a fully integrated way.

⁴ Note of meeting to clarify Terms of Reference pre-contract, Ministry of Foreign Affairs Copenhagen, Thursday 16 April 2009, present: Ms Mia Steninge (MFA); Ms Vanessa Vega Saenz (MFA); Mr Hans-Otto Sano (DIHR); Mr Kim Møller Mikkelsen (MFA); NCG-IHRN Team: Karen Kenny (TL); Charlotte Ørnebjerg; Line Friberg Nielsen.

⁵ Such as from systematic surveys of end-users of partner's services like legal aid providers; users of NHRI complaints mechanisms; or police.

⁶ Malawi was selected due DIHR's long term engagement (DIHR's longest partner country), and the discussions with MFA over downscaling and focusing geographically; Vietnam, due to the potential for regional cooperation with other DIHR partnership countries such as China and Cambodia, as well as the fact that DIHR is phasing out MFA framework funded activities; Afghanistan, due to its status as a fragile state, and because as a high priority country for Denmark as well as for many other donors.

⁷ Key stakeholders in the three desk study countries surveyed: partners of DIHR – state and non-state. donor community (multilaterals such as UN country team and EC delegations etc. as well as bi-lateral such as MFA and other donor representations and embassies). The brief surveys were facilitated by MFA in the case of embassy staff; by DIHR in the case of DIHR national partner organisations; and directly by the team in relation to the country-specific donor community. All replies were invited direct to the team.

⁸ Cohesion is not always achieved on the face of documents where different Departments contribute different sections. Examples include the Co-operation Agreement Application 2008 (2009-2012), hereafter 'CAA 2008'; the 2008 Strategy; the Strategic Framework June 2009. In similar atomisation, individual staff have requested basic checklists of elements of human rights standards as tools for the development of indicators, from outside DIHR. These supports need to be addressed across Departments, see s.6

⁹ As a public body established by Danish law and as an NHRI, DIHR holds responsibilities under international human rights law. The framework is expressly set out in the terms of its Statute (see text box in s.3); and is a criterion applied in the recognition of NHRIs (s.3). This unites both its domestic and international work.

¹⁰ Throughout the review process of interviews and workshops, a range of individual understandings of what human rights based approaches involve were raised by staff and managers. Some were well-informed and linked to demonstrated efforts to apply such approaches in DIHR's work. Other individuals, after more discussion, identified gaps in how they were applying such approaches to their work, and themselves identified ways to address this, including by more systematic organisation-wide application. For others, views of HRBA were based on misperceptions e.g that 'there is only one human rights based approach', or misunderstanding of international law: 'something is not law if you cannot take them to court'; or HRBA cannot be legally required because the principles are clustered in different ways by different people.

¹¹ Opening Statement of the High Commissioner for Human Rights, to the Second Inter-Agency Workshop, '*Implementing a Human Rights-based Approach in the Context of UN reform*', 5-7 May 2003, Stamford, NY, U.S.A.

¹² For DIHR, its Statute is an additional layer, see s.3.

¹³ Annex I sets out key elements of the legal framework in the form of five principles which *International Human Right Network* has evolved as a training tool: express and accurate application of the legal framework; empowerment of rights

holders and duty bearers to claim/deliver; the right to participate; priority to vulnerable groups and non-discrimination; and accountability for these standards.

¹⁴ Consideration of Norway's report under the Covenant on Economic, Social and Cultural Rights: concluding observations of the Committee on Economic, Social and Cultural Rights, E/C.12/1/Add.109, 23 June 2005, para 25.

¹⁵ It also recommends that the State party *evaluate the effectiveness* of human rights mainstreaming in its development cooperation activities Consideration of Sweden's report under the Covenant on Economic, Social and Cultural Rights: concluding observations of the Committee on Economic, Social and Cultural Rights, 1 December 2008, E/C.12/SWE/CO/5

¹⁶ In the case of civil society partners, DIHR support to help them ensure they are not having negative impact should emerge as routine from the start of partnerships. See s.5.4 for strengthened DIHR focus on its own impacts - and methodology for assessing them.

¹⁷ Example: the work done at the Documentation Centre in Niger through the various working committees.

¹⁸ Timelines pre-partnership for building the basis of the future partnership is key. Staff rightly point out that civil society has often an interest in the dialogue with the state- this is not always the case for state partners, and can take more time. There has been a change both of Secretary General and Minister since the cooperation began with the Ministry in Burkina, and DIHR finds that trust must be built with the new leadership. This is particularly in the context of it being a relatively new (2 1/2 years) relationship, having started with the objective of finalising the consultancy for the Danish Embassy, see s.4 consultancies.

¹⁹ Methodologies of support to civil society (as opposed to support to state actors) raise specific questions for DIHR. In survey feedback and Niger field visit, the need for political support to organisations which DIHR supports is raised, and in Niger the Institute has excluded funding monitoring of the human rights situation by its partner NGO. The reasons for a public body like DIHR to hesitate in these areas are clear. However, it also clear that such monitoring is fundamental to the role of civil society, and that political support as often provided by human rights INGOs (rather than technical support) may be what is needed. On-going review is needed to ensure DIHR remains the appropriate partner to meet such needs as a context/partner evolves.

²⁰ Section 5 addresses the '*achieved results*' when reviewing results based management. Examples of achieved results from case studies are mentioned throughout as they arise e.g West Africa text box in s.1. Section 5 on Aid Effectiveness Principles includes consideration of complementarity with review of the related issues of harmonization.

²¹ Half of workshop participants were asked to note individually on cards the three most common challenges they find when assessing the needs of NHRIs in developing countries. This was compared/contrasted with what the other participants highlighted as DIHR's own main challenges as an NHRI in its international work. Participants were also asked to identify unique features of the Institute – which were then contrasted with features it has in common with other international development actors. Finally, staff shared their personal views of what the Institute's independence meant to them in their day-to-day work.

²² Only core roles and criteria are considered here.

²³ Julie A. Mertus, *Human Rights Matters: Local Politics and National Human Rights Institutions* (Stanford University Press, 2009).

²⁴ In discussions, this was illustrated by its work in Rwanda. Since 1998 DIHR has worked on a legal basis that is different from those INGOs working in the country. Whereas the latter register with the Ministry of the Interior according to a determined legal procedure, DIHR operated, appropriately, on the basis of a bilateral Memorandum of Understanding with the Ministry of Foreign Affairs.

²⁵ It one interview, it was suggested that this may be required by 'sovereignty' of the other state - a position at odds with the principle that human rights are the 'legitimate concern' of all states (as reflected by 171 states in the Vienna Declaration and Programme of Action 1993). The August 2008 *Thematic legal Study on National Human rights Institutions and Human Rights Organisations Denmark* by DIHR staff and managers refers to its international work under 'miscellaneous', treating it

as distinct from the work as a NHRI with a domestic focus which the report describes; by Birgitte Kofod Olsen; Christoffer Badse; Helle Schaumann; Martin Futtrup.

²⁶ Denmark/Act No. 411 (06.06.2002), the objective of establishing DCISM (chapter 1, section 1) comprised of two 'independent units' (chapter 1, section 1.2) is followed by the listing of DIHR's 10-point Statutory functions.

²⁷ Example: the availability of DIHR staff to MFA hitherto, up to and including top management, for routine consulting services (e.g programme formulation in Vietnam) may have diminished the perceived importance and status of this Statutory advisory role.

²⁸ It is not as such addressed in the Strategic Framework of June 2009, and does not appear to have specifically allocated resources/staff. This is in contrast to Research, another of the 10 listed Statutory obligations, which has a specific Department. In addition, there is a Department on Human Rights & Business, not itself one of the 10 listed Statutory obligations.

²⁹ For example, DIHR, *Partners in Progress Human Rights Reform and Implementation*: "This publication has been produced by the Danish Centre for Human Rights with financial assistance provided by the Danish Ministry of Foreign Affairs. However, the statements, facts and opinions expressed in the publication do not necessarily reflect the position or opinion of the Danish Centre for Human Rights or the Danish Ministry of Foreign Affairs."

³⁰ The (forthcoming) Education Department plans work with MFA colleagues on human rights (building common understanding of language, concepts etc.).

³¹ See endnote 1, ICHRP: 22

³² The 'Paris Principles' were defined at the first International Workshop on National Institutions for the Promotion and Protection of Human Rights in Paris on 7-9 October 1991, and adopted by United Nations Human Rights Commission Resolution 1992/54 of 1992 and General Assembly Resolution 48/134 of 1993. The Paris Principles relate to the status and functioning of national institutions for protection and promotion of human rights.

³³ International Co-ordinating Committee sub-committee general observation 2007, emphasis added. The Statutory structure provides for DCISM to be responsible for the administration and finance relating to DIHR (with the Centre Director of DCISM responsible for these). Under the Statute, DCISM is to be an 'independent and self-governing institution'.

³⁴ This is reflected in the case of Malawi, where MFA and DIHR took differing views on the merits of continuing co-operation; or in the October 2007 MFA dialogue with DIHR, MFA's view was expressed that there was a "need to focus on fragile states such as Zimbabwe and Sudan". In the CAA approved in 2008, DIHR plans focus on fragile states. Priority-setting is considered in s.4.

³⁵ International Co-ordinating Committee sub-committee general observation 2007, emphasis added.

³⁶ The 2006 Co-operation agreement currently states that the contract is to be '*in line with Danish aid policy, goals and strategy*'.

³⁷ See endnote 1, ICHRP p.23

³⁸ Example: Human Rights & Business commercial consultancies fall outside the routines of even donor funder reporting.

³⁹ A feature of this review is that it is only concerned with the international work. Given the inter-relatedness and inter-dependence of the domestic and international work of this NHRI, it would be important for an appropriate mechanism to be identified with DIHR governance structures, that would provide DIHR-commissioned evaluations of the organisation *as a whole*.

⁴⁰ In 2006 the International Co-ordinating Committee Sub-Committee raised specific concerns when considering DIHR that "*it notes the importance for the Danish Institution on Human Rights to have a legal mandate to issue reports or be*

accountable for its activities to the Parliament.” NHRIs are required to address these concerns in any subsequent application or review (i.e. 2011 is the next DIHR re-accreditation process).

⁴¹ With a newly constituted Board and Director in 2009, there is awareness of the need to ensure both can draw on deep and wide international expertise in human rights based development (programming and policy levels). In this context, consideration is being given to proposing such criteria for future Board membership; and DIHR is refining criteria for fulfilling the vacant post of Deputy Director (August 2009).

⁴² *Danish Institute for Human Rights – Thematic Review of Partnership*, Final Report, Dec. 2005, COWI

⁴³ DIHR international strategy 2008.

⁴⁴ See endnote 1, ICHRP p.23

⁴⁵ The Paris Principles regarding NHRIs require their legal framework to be the universal international HR standards – and only mediated through the Constitution where the latter sets out clearly higher standards. Thus, if a Constitution falls short of the international human rights obligation – the NHRI is to hold the state to account to the international standard. The DIHR Statute refers to both, and the issue has been considered internally within DIHR.

⁴⁶ See “Vietnam to join UN Convention against Torture” <http://english.vietnamnet.vn>, 29 July 2009.

⁴⁷ Denmark/Act No. 411 (06.06.2002).

⁴⁸ At ToR section 5.3.4, see Annex 1

⁴⁹ In both cases by Henrik Nielsen.

⁵⁰ Perceptions from interviews with DIIS and DIHR staff during this review.

⁵¹ See endnote 1, *International Council on Human Rights Policy, Assessing the Effectiveness of National Human Rights Institutions*, 2005. Published with Office of the High Commissioner for Human Rights.

⁵² *General Observation on Ensuring Pluralism*, International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights. Co-operation with civil society is requested to be demonstrated in applications for accreditation to the ICC Sub-Committee.

⁵³ Staff noted in interviews that they learned of this variation only when a compilation of DIHR’s partnership case studies was gathered in the form of a publication. Significantly, this had not emerged through M&E or broader organisational learning (s.6 below). See above. DIHR, *Partners in Progress Human Rights Reform and Implementation*.

⁵⁴ Such as in s.1 and in s.5 of this report where partnership is reviewed in light of the aid effectiveness principles.

⁵⁵ CAA 2007:14, and interviews with staff.

⁵⁶ Example: in seminar on death penalty in Vietnam (international experts with published track record on the subject were brought in from academic institutions in Europe, America, Asia with a book published as an output from seminars held). Similarly, in the case of DIHR’s in-house expert being widely published on China and Human Rights.

⁵⁷ See the first MFA Co-operation agreement review in 2002; and the Partnership review 2005; and it emerged from the internal review of the *Human Rights Officer programme* by Lone Lindholdt in 2007.

⁵⁸ The CAA 2008 opens the possibility of DIHR working in partnership support to political parties, stating that it had not hitherto done so.

⁵⁹ For example to a high-level national seminar on administrative detention or CAT. In contrast, DIHR has. A long-standing collaboration with the Ho Chi Minh Political Academy which has a department on human rights.

⁶⁰ DIHR staff is around 100 people.

⁶¹ Another notable example is the use of human rights experts from Beijing University to facilitate a high-level dialogue on administrative detention in Vietnam in April 2009.

⁶² See s.5 regarding aid effectiveness. Such inter-change may be beneficial to enhance DIHR's capacities to contribute to aid co-ordination, and harmonisation.

⁶³ See Cooperation Agreement Applications 2006-2008

⁶⁴ Referring to countries where DIHR has projects and programmes, including in-country activities of Human Rights and Business Department. The figures in this graph are based on information in the form of lists for each year provided by Hans-Otto Sano from DIHR as focal point for the review.

⁶⁵ In addition one new country was added by the Human Rights & Business (HR&B) department, namely Taiwan, where activities have since have been phased out. Whereas the activity in Taiwan was conducted by HR&B and only took place in the year of 2007, the 4 new countries mentioned are places where DIHR currently has activities.

⁶⁶ Cooperation Agreement Application 2008 and Rolling Plan 2009-2012

⁶⁷ Cooperation Agreement Application 2007 p.14

⁶⁸ Cooperation Agreement Application 2007, Cooperation Agreement Application 2008, Strategic framework for DIHR's international partnership programmes for the promotion, protection and fulfilment of human rights 2008; and the current Strategic Framework 2009-2012.

⁶⁹ Strategic framework for DIHR's international partnership programmes for the promotion, protection and fulfilment of human rights 2008: 17

⁷⁰ The Final Draft of the Strategic Plan for DIHR's international partnership programmes for the promotion, protection and fulfilment of human rights, Strategy for Internal Use, 7 April 2008 is stated to be Final Draft ('lacks Human Rights & Business').

⁷¹ *People's access to rights in Liberia Danish Institute for Human Rights (DIHR)*, Mission to Liberia 6 – 15 September 2006. Copenhagen 2007 Henrik Nielsen and Francesco Castellani. The overall aim of the report was to provide the reader with an overview on the recent developments in Liberia focusing on access to justice for the people living in Liberia.

⁷² See: *Networking for learning: The human face of knowledge management?* Neils Keijzer, Charlotte Ørnemark, Paul Engel. ECDPM Policy Management Brief No. 18, December 2006

⁷³ CAA: 2007:14.

⁷⁴ DIHR considers China a 'region' and thus operates with a regional strategy there.

⁷⁵ *China Platform for Human Rights*, Phase 2 concerning criminal procedure law and practice, DIHR (Dec. 2008)

⁷⁶ Interviews with DIHR staff, as well as written comments from DIHR from the workshops on the 17th and 18th of August 2009.

⁷⁷ The Final Draft ('lacks HR&B') of the Strategic Plan for DIHR's international partnership programmes for the promotion, protection and fulfilment of human rights, Strategy for Internal Use, 7 April 2008, p.22.

⁷⁸ Below is an excerpt from information in the Rolling Report 2008 p.30

⁷⁹ Basic issues were identified for learning in *Review of the project: Strategic Coordination among Case Handling Institutions in Malawi*, 2004 – March 2007, Final Report – August 2007, by Greg Moran & Associates.

⁸⁰ Strategic framework for DIHR's international partnership programmes for the promotion, protection and fulfilment of human rights 2008

⁸¹ Cooperation Agreement Application 2008 p.3

⁸² The focus area ‘access to justice & equal treatment’ was later split into two (with an additional unit on ‘equal treatment and diversity’ created). This is not expected to signify a reversion to the former domestic/ international demarcation.

⁸³ Cooperation Agreement Application 2008 pp. 11-15

⁸⁴ For example, ‘monitoring bodies’ listed under Justice & Equal treatment while ‘media and national HR associations’ under Freedoms and Participation.

⁸⁵ Both Department names and ‘foci’ contain little direct reference to economic, cultural and social human rights, while in practice DIHR does work on these issues e.g Malawi Service Charter programme; West Africa strategy works on family law reform with issues of land ownership etc. This is natural given the inter-relatedness of human rights. Selected themes could also be of a more policy-oriented nature such as advising on MFA Human Rights Strategy (2009).

⁸⁶ Strategic Framework 2009-2012 p. 12

⁸⁷“Develop our international project portfolio in cooperation with new partners, promote our reach, and document and develop concepts, methods, and tools with cutting-edge application with a view to maximizing our impact on civic participation in Denmark and our partner countries.”, mentioned as strategic objectives for three areas of intervention, namely: Rule of Law, Access to Justice and Civic Participation, Strategic Framework 2009-2012 pp. 12-15.

⁸⁸ Strategic Framework for DIHR’s international partnership programmes for the promotion, protection and fulfilment of human rights 2008

⁸⁹ Definitions of what constitutes a fragile state/situation vary. However, according to DFID’s list of fragile states, DIHR is present in 5 of 23; according to the World Bank definition and list of fragile states, DIHR is present in 2.

⁹⁰ Previously recommended in the 2002 Thematic Review for example, See s.5.4 regarding management for results (including process as result), and s.6 regarding organisational learning.

⁹¹ Danida Board meeting of 10 December 2008.

⁹² Sources: Extracts from DIHR ARS database; Introduction to economy and planning in DIHR; Regnskab 2009 Notat til bestyrelsen (11.03.09), Danida decisions regarding DIHR allocations (2007, 2008)

⁹³ The definition of this category is unclear from internal sources and extracts from DIHR financial records.

⁹⁴ The five were: a) *Identification of activities contributing to the prevention of the development of religious radicalism in Niger* (2004); b) *Assist the Ministry of Human Rights in Burkina to develop a priority action plan* (2005-2006 – ultimately approved by the Embassy, June 2008); c) *Identify the Danish Good Governance Program in Niger* (2007); d) *Formulate the Human Rights component of the Danish Good Governance Program in Burkina Faso* (2007); e) *Identify the Danish Good Governance Program in Mali* (2007-2008).

⁹⁵ The relationship with the Ministry for Human Rights in Burkina Faso is rightly seen by DIHR as potentially very important entry point given its deep and wide transversal role in integrating human rights in Burkina’s development. S.5 outlines some ways this may be maximised.

⁹⁶ *People’s access to rights in Liberia Danish Institute for Human Rights (DIHR)*, Mission to Liberia 6 – 15 September 2006. Copenhagen 2007 Henrik Nielsen and Francesco Castellani.

⁹⁷ See: www.unglobalcompact.org

⁹⁸ Report 2007 and Rolling Plan 2009-2012

⁹⁹ Similar trends of phasing out MFA cooperation agreement funding while successfully tapping into decentralised (bilateral and multilateral) funding for programmes is currently taking place in Vietnam, Honduras and Malawi.

¹⁰⁰ DIHR would naturally remain a key stakeholder and a key informant for visiting programme formulation missions.

¹⁰¹ See ODI *Policy Briefs*, ECDPM's *In Briefs* etc.

¹⁰² www.oecd.org/dataoecd/11/41/34428351.pdf to be distinguished from the General Assembly resolution 48/134 of 20 December 1993 on the role and criteria for recognition of National Human Rights Institutions, also known by the short-hand 'the Paris Principles' at www2.ohchr.org/english/law/parisprinciples.htm.

¹⁰³ DIHR is not a 'donor' in the classical sense, since its support to partners is primarily technical as opposed to financial. Its various international roles nevertheless mean that it has a key role in relation to the aid effectiveness principles.

¹⁰⁴ The *Action-Oriented Policy Paper on Human Rights and Development* (AOPP) which was adopted by all DAC members in February 2007.

¹⁰⁵ DAC member states vote every two years on priority policy issues for focus and funding. In 2008, human rights was ranked top of the DAC GOVNET priorities. The Human Rights Task Team's 2009-2010 Programme of Work flows from this GOVNET decision on priority ranking and will focus on human rights and aid effectiveness, human rights and pro-poor growth and human rights and conflict.

¹⁰⁶ *Accra Agenda for Action*, 2008

¹⁰⁷ Denmark has been a Task member since 2006. UNICEF took over the other co-chair as of January 2009. Denmark is also member of the *OECD-DAC GOVNET Bureau*. The DAC's work in the area of governance is carried out through its *Network on Governance* and the Bureau provides vision and coherence to the GOVNET's agenda.

¹⁰⁸ *DAC Action-Oriented Policy Paper On Human Rights And Development 2007*

¹⁰⁹ States are free to choose the most effective route to achieve those results according to their own context – so long as the process itself respects their human rights obligations.

¹¹⁰ See: *DAC Action-oriented Policy Paper on Human Rights and Development* (2007) and *Human Rights and Aid Effectiveness*, (DAC-Update 2007). <http://www.oecd.org/dac/governance/humanrights>

¹¹¹ The Paris Declaration increasingly seen as formulated narrowly mostly dealing with 'aid administration' and 'aid delivery', "with little attention given to the more important underlying issues, including the ultimate goal of development assistance, which is intimately linked to the realisation of human rights. The OECD-DAC Network on Governance (GOVNET), through its Task Team on Human Rights and Development, commissioned ODI to explore the synergies that might exist between the human rights and aid effectiveness agendas and possible implications for the implementation of the Paris Declaration, *ODI Aid effectiveness and human rights: strengthening the implementation of the Paris Declaration*, Marta Foresti, David Booth and Tammie O'Neil. The result of this work is a series of papers that outline a human rights perspective on aid effectiveness: *A Framework Paper on Aid Effectiveness and Human Rights: Strengthening the Implementation of the Paris Declaration*; *Five Think Pieces on Human Rights and the Key Principles of the Paris Declaration: Ownership, Alignment, Harmonisation, Managing for Results and Mutual Accountability*.

¹¹² See DIHR Strategic Plan for International Partnership Programmes, 2008.

¹¹³ The DIHR 2009-12 Strategic Framework refers to 'DIHR's partnership approach to projects' which in itself may be a misnomer and contradict the principles of the partnership approach.

¹¹⁴ *Reform of Law and State Institutions Access to Justice, Civil Society and Research Centres*, Birgit Lindsnæs and Tomas Martin (Eds.) 2002. Chief Editor: Birgit Lindsnæs. Editor: Tomas Martin. Quality control and proofreading: Benita Bertram, Fergus Kerrigan, Lisbeth Arne Pedersen, Karin Poulsen & Mette Holm. Interns: Karin Ericsson & Sisse Bang Olsen.

¹¹⁵ See the Partnership Review 2005.

¹¹⁶ Examples in s.1 text box West Africa illustration; and s.3 text box some HR&B work and accountability including for outcomes; s.5.4 managing for results.

¹¹⁷ The challenge for DIHR in negotiating with funders for the time needed to catalyse human rights-quality processes, is mentioned in the s.1 text box concerning West Africa. There, a funder insisted on a shorter timeframe for the development

of a Judge's manual than the partners and DIHR felt was needed. The result was a significantly *less empowering process* for that period than was achieved with the police (FNIS) manual – the judges' manual process continues with other funding.

¹¹⁸ Example: the Swiss Development Cooperation in Vietnam was targeted on fewer key areas of operation; and French Cooperation in the case of the Judges Manual in Burkina Faso required a shorter timespan than DIHR would have advocated, see previous endnote.

¹¹⁹ In any event, there are times when DIHR's role and potential for leverage is more important than others, and at some point, it is timely to withdraw. The long-term commitments of the Institute to partners and processes is broadly regarded as highly positive, it *can* also, as phrased by one interlocutor, be 'unwillingness to let go' and risk diminishing returns. This is addressed in s.4 regarding strategic priority-setting.

¹²⁰ Such as participation of staff from both state and non-state actors in DIHR human rights training conducted in Denmark.

¹²¹ There are several such examples where DIHR technical and financial support has enabled civil society actors to form networks, strengthen their constituency- and skills-base and carve out a niche that has enabled them to attract additional international donor funding (e.g. Afghanistan, Cambodia, Malawi – see above).

¹²² This was done despite difficult working relations between the government and civil society in Cambodia, and was therefore arranged on an *ad hoc* basis. A more institutionalised approach to securing ongoing and meaningful civil society participation would have been preferable, but was at that point deemed premature.

¹²³ These financial incentives to staff is in the process of being 'transferred' to pooled Danida-AusAid funding for a 'merit-based payment initiative' (MBPI) for civil servants.

¹²⁴ This is linked to the discussion above regarding appropriate consultancies (see also co-ordination, complementarity below).

¹²⁵ Where there is a genuine gap, there is great potential for DIHR to produce well-researched and argued position papers and policy briefs to try to influence the wider policy discourse and thinking in the area of human rights based development. However, that would need to be a separate activity at Institute-level. To 'sell' new concepts to the donor community, it would also be strategic to refer to well-known DAC principles, and identify where/why DIHR's approaches differ - if and when that is the case.

¹²⁶ For example, *Background note on the partnership project between the Permanent Coordination Body of the Council for legal and Judicial Reform and its Project Management Unit and the Danish Institute for Human Rights*, submitted to Danida, Phnom Penh, May 2008. The issue is not whether DIHR contributes to concepts with partners, but the note illustrates an *over-focus* on DIHR ownership –, referring to "the DIHR participatory process" or "the DIHR's Flow of Justice Concept", the "the DIHR Copenhagen office as the centre for expertise" and "the cheer-leader-concept".

¹²⁷ That is, to ensure the concept is needed. RRR – Research, Rights and Reality (RRR) may be an example. It focuses only on a sub-set of DIHR's need to integrate its Statutory role; without the fullness of more widely applicable, human rights based programme cycle management (requiring proper context analysis to ensure relevance of programme design etc.). The latter being a tool to be shared with partners, advocated with MFA etc – rather than a concept 'unique' to DIHR's efforts to draw applied research more systematically into its work.

¹²⁸ See Table 1 in Annex IV; and *Human rights and aid effectiveness*, DAC Update, April 2007

¹²⁹ Other national planning documents, such as the PRSP, were also rightly referred to where they set out higher state commitments than the minimum legal standards contained in international treaties.

¹³⁰ See text box, s.4 regarding consultancies.

¹³¹ See e.g. Project Document for the collaboration between the PCP and DIHR, Project no. 661201, Cambodia

¹³² Example: British Foreign & Commonwealth Office in Vietnam; and AusAid and Danida in Cambodia. However, OHCHR's long-standing office appears to be an important but under-developed contact for DIHR co-ordination in Cambodia.

¹³³ Translated by the review team from the original Danish.

¹³⁴ Staff interviews.

¹³⁵ Another strength in principle is the DIHR support to (state) partners that helps them build their strategic plans so that they are clearly based on the human rights framework (samples in Cambodia, Burkina Faso). In such contexts, the harmonisation of donors around the resulting strategic plan in some cases may be reinforced – precisely *because* of the enhanced legitimacy of such plans being rooted in the country's own obligations.

¹³⁶ In a Statement on behalf of development partners in Cambodia in 2006, Danish Ambassador Ulrik Helweg-Larsen said that “improving the efficiency and effectiveness of Cambodia’s civil servants is not a stand-alone reform but *the* fundamental prerequisite for reform programmes in all other ministries and sectors in the country”, Statement on behalf of development partners for the 2006 CG Meeting, Cambodia

¹³⁷ Some donors (such as USAID, JICA, GTZ) are not permitted to provide salary supplements as part of their development assistance. Others, like Denmark and AusAid have provided salary supplementation in the past. Yet, a 2004 joint statement of European donors, including Danida, stated that “*salary supplements contradict DAC principles of good development cooperation and are detrimental for sustainable development of Cambodia*”, Donor statement on “Salary Supplements in Cambodia”, CG Meeting, Dec. 2004

¹³⁸ Sub Decree no. 29 including the levels of allowances to be provided in addition to the government package, and the organisational arrangements to implement it.

¹³⁹ MoU between Government of Cambodia and Royal Danish Embassy, Phnom Penh regarding a *Merit-Based Performance Incentive (MBPI) in the General Secretariat to the Council for Administrative Reform*, March 2009.

¹⁴⁰ World Bank, French Cooperation, GTZ, Danida.

¹⁴¹ This is entirely appropriate where this accords with Denmark’s obligations as in this case, s.3 refers to this in a different context.

¹⁴² This may have influenced other donors and Danida to ‘take over’ this incentive scheme once government commitment was officially in place through the sub-decree.

¹⁴³ ODI, Marta Foresti, David Booth, Tammie O’Neil, *A framework paper outlining the synergies between the human rights and aid effectiveness agenda and their implications for implementing the Paris Declaration*, commissioned by OECD DAC Network on Governance (GOVNET). 2006

¹⁴⁴ OECD DAC *Linking Human Rights and Aid Effectiveness for Better Development Results: Practical Experience from the Health Sector* Report for the Human Rights Task Team of the OECD-DAC Network on Governance (GOVNET) Clare Ferguson, May 14th 2008.

¹⁴⁵ OECD DAC *Linking Human Rights and Aid Effectiveness for Better Development Results: Practical Experience from the Health Sector* Report for the Human Rights Task Team of the OECD-DAC Network on Governance (GOVNET) Clare Ferguson, May 14th 2008.

¹⁴⁶ See also s.3 regarding public accountability as an NHRI.

¹⁴⁷ Note of the MFA-DIHR Co-operation agreement dialogue, translation of review team.

¹⁴⁸ The point is well made by Livingston Armytage, Centre For Judicial Studies, *Monitoring performance of legal and judicial reform in international development assistance- Early Lessons from Port Moresby & Phnom Penh*, International Bar Association, Chicago showcase, Judicial Reform: Economic Development and the Rule of Law, 18 September 2006:1. The author served as Senior Counsel, UNDP, Cambodia in 2005/6, and as Project Director, Justice Advisory Group, Papua New Guinea in 2003/5.

¹⁴⁹ Erik André Andersen & Hans-Otto Sano, *Human Rights Indicators at Programme and Project Level: Guidelines for Defining Indicators, Monitoring and Evaluation*, DIHR, 2006

¹⁵⁰ *Outcome Mapping: Building Learning and Reflection into Development Programs*. Sarah Earl, Fred Carden, Terry Smutlyo. International Development Research Centre (IDRC), 2001. *The Most Significant Change Technique*. Rick Davies, Jess Dart, 2005. <http://www.mande.co.uk/docs/MSCGuide.pdf>

¹⁵¹ For example, DIHR's publication. *DIHR, Applying a rights-based approach: an inspirational guide for civil society*. Authors: Jakob Kirkemann Boesen and Tomas Martin. Sub-editor: Mette Holm. Comments: Morten Kjærum, Birgit Lindsnæs, Harsh Mandar, Lisbeth Arne Petersen, Carol Rask and Hans Otto Sano. Forward by Morten Kjærum.

¹⁵² See s.2 West Africa approaches to partnership – towards human rights based approaches.

¹⁵³ European Centre for Development Policy Management (ECDPM). '*Capacity, Change and Performance*'. Baser H., Morgan P, 2008

¹⁵⁴ See *Capacity development: between planned interventions and emergent processes: Implications for development cooperation*, ECDM Policy Management Brief, No. 22. March 2009

¹⁵⁵ It situates and measures ownership, alignment etc in the context of achieving Vietnam's Development Goals by 2010 (as in 5 Year Socio Economic Development Plan, SEDP, and the MDGs by 2015). Similarly, the *OECD Issues Brief on Mutual Accountability, June 2009* illustrates the opportunities for DIHR to strengthen their partners' capacity to engage with localized versions of the Paris Declaration. It specifically cited localised Paris Declaration processes in Vietnam and Cambodia

¹⁵⁶ A partner country that can be learned from, see the management for results initiative led by the Niger Government. The Cap Scan diagnostic process in Niger follows significant efforts by the Government in reviewing and improving the monitoring and evaluation mechanisms in each Ministry for the Development and Poverty Reduction Strategy 2008-2012 (SDRP); with significant training efforts for public servants.

¹⁵⁷ This country is *illustrative only* – the DIHR work there is already planned, and for clarity it is emphasised this is not to recommend switching the West Africa strategy.

¹⁵⁸ OECD DAC scoring system set out in *Baseline Survey Paris Declaration on Aid Effectiveness*, 2005.

¹⁵⁹ Previous sections illustrated the risk of individual views becoming propounded or interpreted as reflecting Institutional positions without the necessary level of organisational policy-making and quality assurance. Examples include strategic documents previously visibly drafted in separate sections - not processed *as an organisation* (CAA 2008; draft Strategic framework 2009); and lack of clear responsibility for organisational level quality assurance such as error checking for legal accuracy. To retain its comparative advantage of legal expertise, legal errors must be caught before they appear on the face of key DIHR external documents. Examples: the legally distinct term 'citizen' used instead of 'human rights' in several places CAA 2008; terms such as 'investment liberty' are inaccurate and ideologically loaded, risking watering down human rights standards (CAA 2008:9). The right to a fair trial became reduced to the right to the 'possibility of' a fair trial in a DIHR submission to MFA Hearing on 2009 policy.

¹⁶⁰ A number of functions that should be cross-cutting have been added *ad hoc* to tasks of different Heads of Departments, who already are variously: managing/developing multiple programmes, carrying out consultancies, co-ordinating with other Departments, and drafting, sometimes on own-initiative basis, documents and tools etc..

¹⁶¹ In 2002, thorough capacity assessment and planning based on such an assessment was recommended in the DIHR-MFA review. This arose again in the 2005 review, and is currently being advanced within DIHR in 2009. Self-assessment of individual learning needs is likely to need to be supplemented by organisation-wide, needs identification.

¹⁶² Extract from: *Responding to Change: Learning to adapt in development cooperation*. Paul Engel, Neils Keijzer, Charlotte Ørnemark, ECDPM Policy Management Brief No. 19, March 2007, Maastricht.

¹⁶³ See Hannah Grene, *Corporate Accountability for Human Rights: Using the OECD Guidelines for Multinational Enterprises as a Tool*, in Trocaire Development Review 2009 (forthcoming). Importantly, 97 out of the world's top 100 multinationals operate out of adherent countries, *OECD Annual Report on the OECD Guidelines for Multinational Enterprises 2005*:

Corporate Responsibility in the Developing World (Paris: OECD,2005). The Guidelines also have an influence beyond the borders of its adherent states. To quote the Guidelines directly: *'Since the operations of multinational enterprises extend throughout the world, international co-operation in this field should extend to all countries. Governments adhering to the Guidelines encourage the enterprises operating on their territories to observe the Guidelines wherever they operate, while taking into account the particular circumstances of each host country.*

¹⁶⁴ This term is meant as an empowering process of raising awareness and engagement. It is distinct from external communication work carried out on the West Africa strategy through interviews on the DIHR web-site, articles for the Danish Embassy and different power point presentations.

¹⁶⁵ See 5.4 Mutual accountability and managing for results.

¹⁶⁶ In own-initiative research *International Human Rights Network (IHRN)* has examined the systems through which development and other field operators, manage learning from their experience. IHRN researched UNDP, Unicef, the OHCHR, UNHCR Department of Peacekeeping Operations, UN Volunteers Programme, the Office of Internal Oversight, ICRC and a cross-section of NGOs as well as commercial and military organisations. Further detail at <http://www.ihrnetwork.org>, particularly the following publication: *Learning – to Integrate Human Rights*.

¹⁶⁷ Which is being approached systematically with the re-establishment of an Education Department in 2009 (currently a unit), engaged in a process of strategic planning and internal staff needs assessment during the review.

¹⁶⁸ Examples: policy on national staff recruitment, policy on funding of NGO partners' human rights monitoring.

¹⁶⁹ Examples may include management skills; information technology e.g for DIHR contacts management; experienced evaluators; a range of human rights policy and development programming,; experience in supervising translating lessons into policy, doctrine, operating procedures reflected in DIHR's training, methodologies, etc.

¹⁷⁰ For example, DIHR's clear and useful publication, distills the legal framework into 4 principles. *DIHR, Applying a rights-based approach: an inspirational guide for civil society*. Authors: Jakob Kirkemann Boesen and Tomas Martin. Sub-editor: Mette Holm. Comments: Morten Kjærum, Birgit Lindsnæs, Harsh Mandar, Lisbeth Arne Petersen, Carol Rask and Hans Otto Sano. Forward by Morten Kjærum.

¹⁷¹ Table 1 is drawn from that 'Stamford Common Understanding' at which UN agencies agreed, at the highest level, what it meant to *'fully integrate'* human rights into their work. The table is a training tool adapted by International Human Rights Network in its work. See Report of the Second Interagency Workshop on Implementing a Human Rights-based Approach in the Context of UN Reform, (Stamford, USA, 5-7 May, 2003.)

¹⁷² DAC Action-Oriented Policy Paper On Human Rights And Development 2007

¹⁷³ The legal principle of empowerment is central to understanding that human rights are legal standards – while the *means to achieving those standards are processes of changing power relationships in a society*. The truism applies: *'Human rights are never willingly given as a gift by those with power – they must be effectively demanded'*. A key question in relation to the empowerment of rights holders is how demand HR effectively? A key question for duty-bearers is: how to be accountable for respecting, protecting, fulfilling human rights? For both – how to achieve needed changes? Awareness of HR and enhancement of capacity to stimulate change are strengthened through empowerment.