

Annex C: Detailed methodology

An evaluation of 10 years of Danish support to promotion and protection of human rights requires careful scoping in order to be focused and relevant. Denmark's support is multifaceted from policy initiatives as well as dialogue at international or national level to direct or indirect programme engagements at various levels together with or through partners. The instruments governing the support are likewise multiple from strategies; policies; guidelines; approval processes and contracts to programme and project documents; evaluations; reviews and reporting.

The intention of the evaluation is, through a tailored contribution analysis, to primarily map results of initiatives or engagements within two of the selected priority areas of the Danish human rights portfolio. The evaluation also attempts to illustrate if there are any synergies between the policy and programme level. A former study *Synergies and Linkages Between Danish Efforts to Promote Human Rights at the Multilateral Level and in Development Cooperation* provides valuable information about the period from 2000 to 2012. Consequently, this evaluation will not duplicate that study but use its findings to measure if similar observations are reflected in the period 2012 to 2016.¹

Furthermore, the evaluation will assess actual and potential barriers and opportunities for an effective and coherent support to promotion and protection of human rights that is aligned with the overall strategies and policies for Danish support. Based on the findings the evaluation will identify key lessons learned and make recommendations for the MFA's future work with Human Rights engagements.

Danish human rights priority areas

The evaluation focuses on assessing the impact and deriving lessons learned from activities related to two selected priority areas within the Danish support for human rights. The ToR originally identified five priority areas, namely:

1. Support for human rights institutions such as national, regional and international human rights institutions and human rights commissions
2. Freedom from torture
3. Rights of indigenous peoples
4. Corporate Social Responsibility
5. The promotion of rule of law and access to justice through justice sector reform

Although, an evaluation of all five priority areas would have been ideal, it has become clear to MFA and the evaluation team during the evaluation process that it would not be feasible to cover all five areas in the period 2006-2016 within the means and resources available and with the aim of presenting the results in a reader-friendly evaluation report of approximately 40 pages.

It also became clear that the scope of the evaluation requires that a large number of documents are accessible in a structured manner for the entire period. The document management within the MFA has appeared, at times, incomplete, in particular prior to 2012, making it difficult for MFA to be able to identify and retrieve documents for assessment by the evaluation team. Consequently, it has been a complicated challenge for MFA to provide the team with relevant documents for all five priority areas.

Due to these challenges, and in order to have a more focussed evaluation, it was during the process decided by MFA to select two of the five priority areas for the main analysis and hence in the main evaluation report² which are:

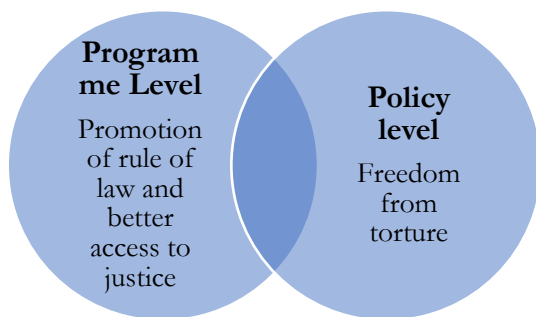
¹ *Synergies and Linkages Between Danish Efforts to Promote Human Rights at the Multilateral Level and in Development Cooperation* pp. 27-31

² The complementary portfolio analysis still covers all of the five original priority areas and have been carried out under a supplementary contract.

- Promotion of rule of law and access to justice through justice sector reforms
- Freedom from torture

It was further decided to limit the scope of the two priority areas to an evaluation of the programme level in relation to the priority area promotion of rule of law and access to justice through justice sector reforms (hereafter “rule of and better access to justice”) and to focus on the policy level in relation to freedom from torture. However, it is not possible to entirely limit the scope in this manner as the policy and the programme levels may impact each other and, furthermore, promotion of rule of law and access to justice programmes will often include freedom from torture aspects: Justice sector institutions programmes require, in order to be compliant with international standards, that the convention against torture is integrated directly or indirectly into the programme. For instance, if a programme targets the capacity of a court to handle criminal cases, the programme may also have to address how to ensure that statements of accused are not produced with the use of torture.

The scope of the evaluation is illustrated below:



Principles for evaluation of Denmark’s contributions to results at programme and policy level

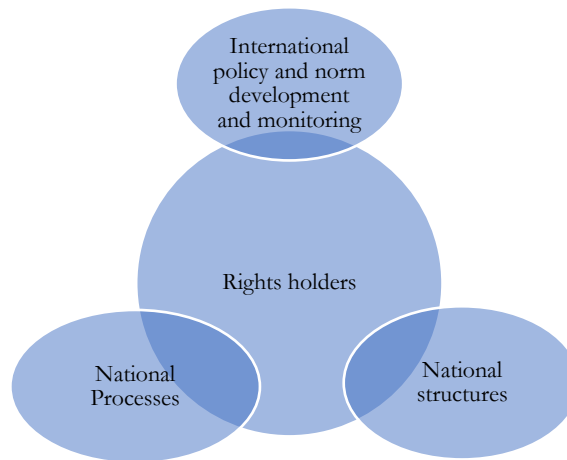
The international human right framework is based on three pillars: Respect, Protect and Fulfil. Consequently, the state must refrain from interfering with the enjoyment of human rights and it must prevent private actors or third parties from violating human rights. Finally, the state must take positive measures, including adopting appropriate legislation, policies and programmes, and set aside resources, to ensure the realization and enforcement of human rights.

In this context, specific human rights engagements may target four different layers:³

1. International policy and norm development and monitoring
2. National structures in terms of the state’s commitment to international instruments and their implementation of such commitment through national policy and norm development (e.g. adoption of strategies, legislation and creation of a national human rights infrastructure)
3. National processes in terms on the state’s ongoing efforts to transform their human rights commitments into the desired results, which may include its capability and capacity to implement, ensure, promote and enforce human rights standards through its national human rights infrastructure.

³ This is based on the Office of the United Nations High Commissioner for Human Rights (OHCHR) guide “Human Rights Indicators - A Guide to Measurement and Implementation” and its uses of structural, process and cross-cutting indicators pp. 34-41.

4. Rights holders and their representatives (e.g. CSOs), enabling them to participate, hold duty bearers accountable and claim their rights



Denmark's contributions, through a variety of human rights engagements, touch upon all four layers. However, for the purpose of this evaluation the programme level is assessed in relation to national structures and processes and rights holders (level 2, 3 and 4), and the policy level is assessed in relation to international policy and norm development and monitoring; national structures and rights holders (level 1, 2 and 4).

The evaluation applies a tailored contribution analysis in order to determine, based on the available documentation and interviews with stakeholders and the MFA, whether the Danish engagements within the four layers, have contributed to any results, primarily in terms of outcomes and impacts. The engagements and their modalities are further measured against specific contribution analysis criteria such as:

Necessity and relevance in the sense if Denmark's inputs in general have been assessed as being essential to the achievement of the outcomes and impacts; if the Danish engagements are suited to the priorities and policies of the target group, recipient and Denmark and whether the outcomes of the engagements in general have been consistent with the intended impacts and effects.

Significance of Denmark's input in the sense whether the inputs had any effects on the quality of the results, primarily the outputs and outcomes.

The clarity of linkages between Denmark's input to the results in the priority area in the sense whether it is possible to observe a credible linkage that is confirmed by stakeholders or/and documentation.

What are **the driving or constraining factors as well as risks** that have impacted the results chain and the envisaged or potential theory of change, and what is the potential of Denmark to address these factors and risks.

Traceable results and impacts in the sense if the engagement has resulted in traceable positive changes compared to the situation before the engagement, directly or indirectly, intended or unintended, for the benefit of the immediate beneficiaries and right holders.

These criteria also correspond to the DAC evaluation criteria which form part of the Evaluation Questions 3-4 and 6-7.

The main analysis in this evaluation report is not an evaluation of the individual engagements and its modalities, but whether the engagement modalities has led to intended and documented results, and what are the contributing factors.

Scoping the evaluation of the rule of law and access to justice priority area

Denmark has throughout the evaluation period supported a large range of programmes within the priority area *promotion of rule of law and access to justice*, including institutional strengthening, law reform and support to CSOs. Unlike the priority area *freedom from torture*, this priority area constitutes an overall framework, which encompasses the four other priority areas as rule of law is not a human right *per se*, but fundamental for the promotion and protection of human rights. Rule of law is by many considered as a means to achieve promotion and protection of human rights as well as an end goal. In scoping an evaluation of the priority area, it should also be borne in mind that there is no single definition of the RoL.⁴ This is also reflected in the variety of rule of law indicator indexes. The World Justice Project (WJP's index) combines for instance rights, crime and security, the absence of corruption, civil justice, and several other features in order to calculate one, multidimensional, indicator.

Consequently, the priority area covers a wide range of national structures and processes (e.g. legislative drafting, legal reforms and parliamentary processes) and their corresponding duty bearers, including oversight institutions, as well as rights holders. The priority area also covers formal and informal justice systems, gender equality issues, etc. The priority area could even be extended to transitional justice or post-conflict situations.⁵

Access to justice is a fundamental human right, that according to UNDP “includes the ability of people to seek and obtain a remedy, through the formal or informal justice system, and in accordance with human rights principles and standards.”⁶ For this purpose, access to justice calls for a number of actions such as legal protection, legal awareness, access to legal aid and counsel, adjudication and enforcement. In this flow a number of justice sector actors are essential to ensure and protect the rights holders.

The actual tangible contents of the priority area rule of law and better access to justice is not elaborated in an overall Danish strategy. However, the adopted development strategies since 2000 for international cooperation are concluding that rule of law is a condition for human rights and progress. The strategies are also linking Denmark's contribution to rule of law with the development of, or support to, well-functioning legal systems in the partner countries (Partnership 2000; Freedom from Poverty; Freedom to Change 2010) and to strengthening the institutions that are crucial to a well-functioning law-governed society (2009 *Strategy for International Human Rights Cooperation*). The 2012 strategy Better Life does not explicitly mention the legal system but observes that Denmark will systematically strengthen capacity of public authorities, civil societies and rights holders.

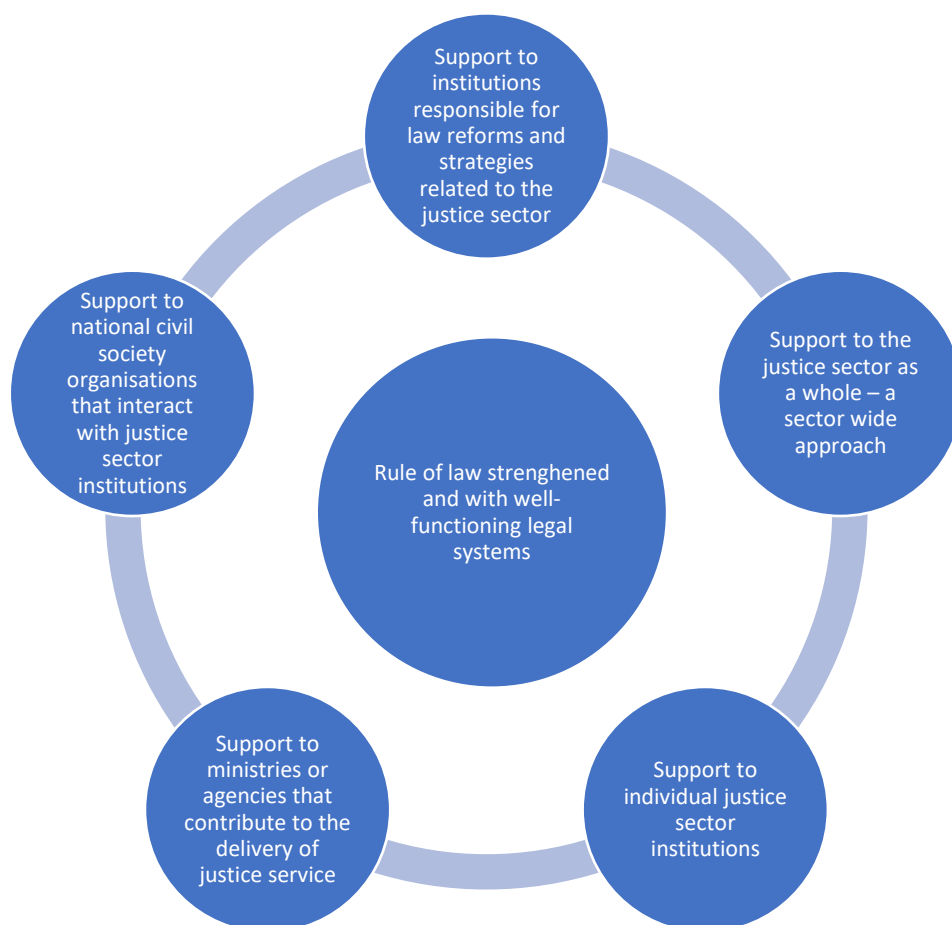
⁴ The UN rule of law definition broadly defines the Rule of law around i) drafting of new laws (and the need of procedural transparency and participation in decision making), ii) Content of law (consistency with international human rights norms and standards), iii) Application of laws (e.g. equality before the law) and iv) Separation of powers, see also the UN Rule of Law Indicators Implementation Guide and Project Tools.

⁵ See e.g. *Delivering justice: programme of action to strengthen the rule of law at the national and international levels*, Report of the Secretary-General to the UN General Assembly March 2012; *Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels*, resolution adopted by the UN General Assembly November 2012 and prepared by Denmark and Mexico and *How to Note: Justice Sector Reform*, June 2010 stating that “Danish support to justice sector reform often includes support to formal and informal institutions, and to state as well as non-state actors.”

⁶ See UNDP 2014 *Guidance Note on Assessing the Rule of Law using Institutional and Context Analysis*, p. 2.

The so-called “How to Notes” on Justice Sector Reform and Informal Justice Sector from 2010 also confirm that engagements e.g. should promote and respect the functional independence of the judiciary and of other independent institutions; balance support to state, government and civil society by addressing both the demand and the supply side of justice in both the formal and informal justice systems and empower individuals to claim their rights and enable their equal access to justice. This may include support to legal reforms, strategies, sector development or institution building, organisation building and capacity building of both justice sector actors and right holders etc.

Consequently, in the absence of a strategy, it appears that the guiding objective could be phrased “to contribute to the establishment of rule of law with well-functioning legal systems in the partner country.” This is potentially pursued through a variety of identified engagement modalities:



Despite the fact, that an assessment of rule of law and better access to justice could cover multiple processes and actors, the present analysis will mainly focus on the above engagements addressing justice sector actors contributing to access to justice by implementing, up-holding, adjudicating and enforcing laws; and less on parliamentary processes for legislative drafting and oversight or the general justice sector reform or strategy processes.

Furthermore, the evaluation will take its point of departure in development cooperation engagements, where rule of law and access to justice have been the core elements and not a smaller component of

another programme, however not excluding programmes where the priority area has been a smaller component if relevant in order to illustrate observations, findings or recommendations. Programmes illustrating support to international bodies (e.g. the Inter American Commission or Court for Human Rights; or the African Commission or Court for Human Rights) will be included in the assessment although they may not be regarded as justice sector actors as such.

The Danish inputs through the engagement modality are sometimes provided directly from the Danish Ministry of Foreign Affairs, sometimes through Danish international or locally based NGOs or institutions, sometimes through budget support or through basket funding mechanisms. Regardless the modality, the engagement is based on a simplified theory of change, where the Danish input contributes to a series of outputs, that result in outcomes that will contribute to an impact – transformative changes – benefitting the right holders and enhancing the rule of law. The specific outputs, outcomes and intended impact are identified in the programme/project documents. Based on the principles of the contribution analysis, the evaluation will map the achieved results related to the engagement modalities based on the available documentation as well as the contributing factors reported in the documentation and through the interviews.

Scoping the evaluation of the freedom from torture priority area

The priority area *freedom from torture* is mainly evaluated with regard to the policy level. This is due to the fact that Denmark for many years has worked in multilateral fora and in the EU to strengthen international human rights instruments to fight torture, e.g. by driving UN-resolutions on the subject and spearheading cross-regional initiatives against torture (such as the Convention against Torture Initiative – CTI). The focus will be at UN level, as it is the main multilateral mechanism that creates norms and has global legitimacy and presence as well as provides a platform for dialogue, monitoring and follow-up. It is however recognised that Denmark also is active in important fora such as EU, Council of Europe and OSCE.

An evaluation of the policy level faces a number of challenges in particular with respect to the actual evaluability of the policy level modalities. According to OECD/DAC the term evaluability is defined as “the extent to which an activity or project can be evaluated in a reliable and credible fashion”. The policy modalities are not falling squarely within that definition. Usually, an evaluation concerns whether a project is successful in reaching its objectives measured against formulated indicators and targets. However, many of the policy level modalities do not, in advance have clearly identified intended outcomes and impact or steps towards achieving an objective, and there are rarely formulated any valid or reliable indicators related to outputs, outcomes or impact.

An evaluation of the policy level in relation to the priority area freedom from torture is further challenged by the fact that Denmark does not have any written strategy in the area. An overall guiding objective of ensuring the elimination of all forms of torture and other ill-treatment as well as strengthening and elaborating the role of the UN in the effort to eliminate torture and other ill-treatment, can be identified in the Danish *Strategy for International Human Rights Cooperation* from 2009, but no individual/targeted policy or strategy exists.

Despite these challenges, the evaluation attempts to document and verify in a credible and reliable way the contribution made by Denmark to the achievement of results within this priority area. For this purpose, the evaluation applies the principles of a contribution analysis to a set of engagement modalities.

These modalities have been identified as the most common and confirmed through discussions with stakeholders and the MFA. Each identified modality as well as the sum of modalities is believed to

create a casual linkage between Denmark’s inputs, the outputs and the achieved outcomes and potential impacts within the priority area. A simple theory of change, formulated based on the interviews with MFA and stakeholders as well as the documentation, is that Denmark’s efforts will lead to a number of outputs and outcomes through these individual modalities as well as through an accumulation of the results stemming from the applied modalities. These results contribute to changes at both international and national level because the more the international community is engaged, the stronger international policy and normative framework and mechanisms to fight torture will be, and the stronger potential protection will correspondingly be achieved for the right holders at national level:



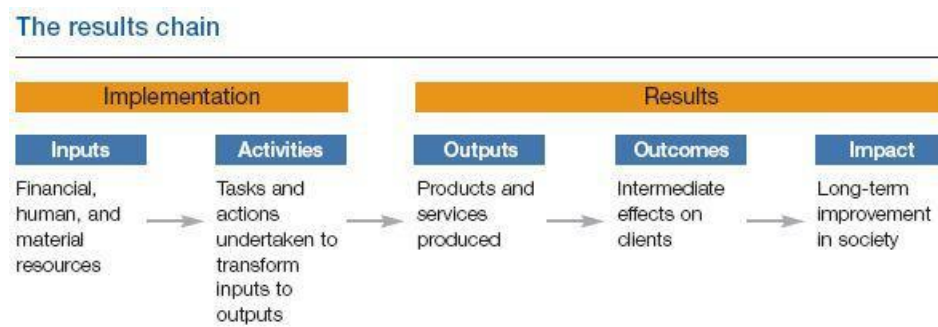
Theory of change

Since April 2006, the programme/project design and monitoring have been based on the Logical Framework Approach described in the guidelines “Monitoring at Programme and Project Level – General Issues, April 2006” whereby:

The development objective indicates the expected long-term or final **impact** to which the programme/project (or engagement) will **contribute**. The immediate objectives indicate **the outcomes**

needed for achieving the envisaged development objective to be achieved within the engagement period. This is an accumulation of the outputs as outputs are direct products of activities carried out, and which will lead to the needed outcomes (effects). In more complex cases, a level of intermediate objectives is sometimes inserted between the immediate objectives and the development objective. These objectives are a sort of a hybrid of intended/needed outcomes and impact.

This is also reflected in the result chain diagram included in the Danida Framework for Managing Result 2011-2014:



The results chain underpins, according to the 2011-2014 Danida Framework, the management for development results philosophy of shifting focus from input and activity to output and in particular outcomes and impact. It is further expected that Danish funded programmes should at least be able to report results at the output-level. The output level indicates results that are measurable and readily determined. Indicators related to outputs are often process indicators, that show if the programme is being implemented as planned as this is a condition for achieving the outcomes. The outcome level is effects/a change caused by the engagement. The outcomes should be measurable and time limited. However, it may take some time to measure the full effect. The impact level are long-term effects or indirect effects of the outcomes. For the right holders, the outcomes should contribute to transformative changes. A condition for measuring outcomes and impact is the existence of a credible and useful baseline.

The result chain approach has been further supplemented with a requirement to explain a theory of change for Denmark's development programmes and projects. Development assistance is about contributing to change for Denmark's partners and according to Danida's guidelines from 2014 on the Theory of Change, the ToC articulates the many stages, steps and assumptions about how this change will happen. The ToC also helps explaining and documenting the linkages between strategic objective, thematic objectives, outcomes and outputs as outlined in the Results Framework. Consequently, the ToC is also seen as an explanatory Logical Framework with a strong focus on how to get from one step in the intervention logic to another and a serious assessment of assumptions and risks for this process.

As explained previously, the evaluation of the two priority areas is based on the assumption that the Danish support (an input as an intervention in terms of a policy initiative or programme engagement) will lead to output(s), that will result in an outcome, which will contribute to an impact (transformative changes), that fulfils, promotes or protect the human rights of the rights holders.

It is further assumed that moving from an output to an outcome rarely depends on the Danish support alone and that the results of the Danish support may only contribute to the impact. Moving from an output to an outcome and further to an impact require a strategy to overcome challenges, flexibility and ability to make use of windows of opportunities. Furthermore, it also requires that the leap between the

various levels of results are not too ambitious. In order to move successfully from one step to another, the Danish support is believed to have envisaged, based on e.g. experience or research, why a certain intervention is effective and what factors that may contribute to or hinder the achievement of results. Consequently, the evaluation will, based on the documentation and interviews, identify the common interventions and whether these generally have been regarded as effective and why, as well as what have been the common relevant factors and strategies to manage such factors.

However, the evaluation assumes that the better Denmark is at finding credible partners, assessing the context, including the drivers of change, positioning itself and capable of moving others through a variety of instruments (e.g. partnerships; dialogue; alliances or strategic interventions), the better chances of achieving the planned outcomes and expected impacts. This chain of events may even be further catalysed, if Denmark makes use of the synergies and linkages between the policy and programme level.

The ToC approach has been applied in the evaluation analysis as follows. Based on a thorough assessment of strategies, policies, project and programme documents, a theory of change has been formulated in terms of basic results chains for each of the two priority areas. This is done in the introductory part of the analysis and as a response to EQ 1 and EQ2 (primarily) which relates to the mapping of themes, modalities, instruments, partner choices, etc. in the Danish human rights portfolio.

These ToCs are subsequently tested, validated, elaborated and adjusted through the remaining analysis and as such the ToCs will be unfolded and qualified through the results analysis. Finally, an analysis of the factors that have either driven or constrained the achievement of results is carried out through which the evaluation will establish the hypotheses for the change process and influencing factors of moving from one level in the results chain to the next.

Working methodology and sources

Desk study

A comprehensive desk study has been carried out during the evaluation. As mentioned in the main report, during the evaluation process it was clear that the MFA does not apply a very systematic approach to documentation handling, and it has therefore been a rather long process to access all relevant documentation. This is further challenged by the mere fact that the object under evaluation 'human rights' is extremely broad and do not have clear-cut starting- nor end-points; not even when limited to the five priority areas.

In the complementary portfolio analysis, the documentation base related to all five original priority areas is mapped and an overview of the portfolio is provided. The portfolio analysis also covers the four key partners' interventions, who have also made documentation available to the evaluation team.

Semi-structured interviews

A large number of semi-structured interviews have been conducted to increase and verify understanding of the Danish engagements, observations from the documentation and processes by obtaining inputs from relevant interlocutors in Denmark; Geneva, Switzerland and MFA staff in Denmark and the UN in Geneva and New York. The list of interviewees and correspondents is provided in Annex E.

The use of information from interviews should be seen in light of the time span of the evaluation and the fact that staff has moved or are no longer working with MFA or the relevant NGOs/institutions, and that it can be difficult for people to recall concrete engagements many years later. They have however provided invaluable insight and perspectives on the findings and the analysis in general.

Field visits – priority countries

Field visits have been undertaken in four Danida Priority Countries, namely Burkina Faso, Niger, Tanzania and Uganda (pre-identified in the ToR). During the visits key informant interviews were carried out with embassy staff, staff from partner organisations, other foreign embassies, multilateral partners and other relevant individuals (e.g. researchers or key opinion leaders). It should however be noted, that since the field visits were carried out before the scoping of the evaluation to two priority areas at each their level of implementation, the field visits had a focus that has not necessarily been very useful to shed light upon the altered evaluation focus. Therefore, the information gathered during these visits is only to a limited extent used in the evaluation report. They have however also informed the portfolio analysis and provided good value to understanding the overall Danish approach to working with human rights at the bilateral level.

Field visit – Geneva

A field visit to Geneva was undertaken at a later stage in the evaluation process, which allowed the evaluation team to interact with key Danish partners and key actors in the policy level of the fight against torture. A number of semi-structured key informant interviews were undertaken, and the evaluation team also engaged with key staff at the Danish mission to the UN in Geneva responsible for the technical area as well as the Danish ambassador.