

## **Human Rights Impact Assessments (HRIAs): The What, the Why and the Critics**

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### **Backgrounder**

In most countries there continues to be a gap between having human rights and the enjoyment of those rights. A Human Rights Impact Assessment (HRIA) is a methodology aimed at measuring how large the existing divergence is between the commitments made by a State toward human rights and the ability of individuals and communities in a given context (national, regional and local) to enjoy those rights. Impact assessments have for a long time played an important role in social and environmental policy evaluations. Introducing HRIAs implies relying on indicators as an integral component for transforming human rights concepts into pragmatic policy instruments. Effective HRIAs aim to influence policymakers (public and private) to consider and analyze the impact of all kind of policies on human rights and to take such considerations into account when evaluating the merits of existing policies and laws from a human rights standpoint. In doing so, HRIAs can provide governments, intergovernmental organizations, and companies with tools that can allow them to better protect, promote and fulfill human rights.

There is now an emerging recognition among academics, practitioners and policymakers that HRIAs are needed for ensuring that individuals' human rights are protected and promoted in environments that are empowering and conducive for both rights-holders and duty-bearers. In order to do so effectively, it has become imperative that HRIAs hold state and non-state actors accountable for their policies, that they become integrated and utilized in policymaking circles for making improvements and guiding policies, and that they remain sensitive to local contexts without undermining existing commitments to universal human rights. In doing so, HRIAs can provide an entry point for accountability mechanisms of human rights policies and practises while simultaneously encouraging greater democratic monitoring prior to (ex ante) an activity takes place or after the activity has been undertaken (ex post).

In recent years there has been a growing interest in the use of HRIAs for responding to specific human rights-related needs and concerns: development, MDGs, trade, and anti-poverty strategies. The Canada-Columbia Free Trade Agreement (CCFTA) is an example of how human rights concerns are becoming an indispensable part of trade and investment agreements. States have been regularly called upon to ensure that they remain committed to realizing their human rights obligations during the trade and investment agreements they conclude, whether at the multilateral or bilateral level. HRIAs create additional avenues for conducting due diligence in trade and investment arrangements by working to ensure that State obligations guaranteed by human rights treaties and under trade and investment agreements do not impose conflicting obligations on States.

HRIA serves as well as a vehicle for promoting the respect of social and economic rights in the development of poverty eradication strategies and for measuring the progressive realisation of all human rights. Such impact assessments can enable policymakers, scholars and practitioners to use HRIAs as a way to promote certain causes and to rally support for acting against human rights threats. By doing so, –due to the interdependent nature of human rights– progress in one area has the potential to benefit a wider set of goals and work towards enhancing the realization of human rights. Widespread use of HRIAs can also encourage a larger set of actors to recognize that human rights principles are interdependent and interrelated and require a more comprehensive approach than existing indicators that focus on one and only impact.

Despite widespread interest in HRIAs, there is not yet a consensus among HRIA literature and discourses surrounding the most appropriate methodology for achieving the progressive realization of human rights. Opinions remain mixed on how to create the most appropriate way of creating a universally applicable methodological framework that would allow HRIAs to achieve their goals while at the same time being politically acceptable and flexible enough to respond to local needs. Some of the most perplexing questions surrounding the debate around HRIAs are whether methodologies should rely exclusively on quantitative, or qualitative indicators, or a combination of both, in order to gain a tangible sense of how far countries have come with regards to the progressive realization of their human rights.

Other concerns involve the complexity and difficulty in ensuring that HRIAs promote participation, empowerment and national ownership. It is important that HRIAs are not captured by experts alone but that they allow rights-holders to voice their concerns over decisions that affect their lives to prevent inappropriate one-size fits all policy prescriptions that are not sensitive to their needs to be advanced. This requires a commitment to human rights principles through the promotion of bottom up approaches and expansion of channels of participation for those involved in HRIAs so that the concerns of people from different contexts are adequately addressed. Doing so would allow for more meaningful participation from civil society groups and the most affected rights-holders. Expanding participation in HRIAs may also serve as a mobilization tool for addressing gender issues and empowering women by granting them a voice in policy debates that impact their lives.

HRREC (<http://www.cdp-hrc.uottawa.ca>) proposes to bring the HRIA debate to Canada by inviting scholars and NGOs to the video table in 2012. Despite diverging options that exist on the subject, HRIAs remain viewed as a very important development for advancing human rights. As the HRIAs debate is going on we hope to open up discussions and debates to further our understanding of the issue and to collaboratively make HRIAs an undisputed part of national and international policy making decisions.

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