

An Introduction to Human Rights Impact Assessment

For more information visit the Human Rights Impact Resource Centre at www.humanrightsimpact.org.

There is a difference between having rights and enjoying those rights. In most countries there is still a big gap between human rights in theory and in practice. A Human Rights Impact Assessment (HRIA) is a process to measure the gap between the commitments made by a state (human rights in theory) and the actual ability of individuals, groups and communities in a country to enjoy these rights (human rights in practice).

HRIA provides an entry point for the accountability of human rights policies and practices and facilitates democratic monitoring. It provides (intergovernmental) organisations, governments and companies with instruments to better focus their human rights efforts; and it can be used as an analytical and lobbying tool by activists and NGOs.

An impact assessment can be done before the activity takes place (ex ante), or after the activity has taken place (ex post). HRIAs are implemented using tools or instruments that are designed for a specific context or policy area. They can look at one specific step of a HRIA or they can be broad frameworks.

The Aim of HRIA

The purpose of a Human Rights Impact Assessment is to prevent negative impacts and to maximise positive impacts regarding to human rights. At the same time, the process of conducting an assessment increases knowledge about human rights and helps to build capacities to use a human rights framework. Also, it helps to identify the impact of a policy, program or project and it helps to voice concerns more effectively.

HRIA is based on the normative framework of international human rights law laid down in the Universal Declaration of Human Rights, the international Covenants on Civil and Political rights, and on Economic, Social and Cultural Rights. When you make a Human Rights Impact Assessment you link the impact of laws, measures, policies & practices on human rights to the human rights obligations of your state (Lenzen and d'Engelbronner, 2009: 9).

Human Rights Impact Assessments examine a wide range of different activities from the human rights perspective, including the impact of: development programmes of foreign governments on beneficiary countries; the impact of government policy and legislation on domestic protection of human rights; the human rights impact of multinational companies (MNCs); and the extent to which human rights-related non-governmental organisations (NGOs) have achieved their policy aims and objectives (Harrison and Goller, 2008: 588).

Ex Ante and Ex Post

An impact assessment can be ex ante (before an activity takes place), or ex post (after the activity has taken place). Ex ante HRIAs aim to identify the potential impact of activities to prevent human rights violations. It is important to carry out the HRIA at

the earliest possible stage so that the outcome can be incorporated in the decision making process (Lenzen and d'Engelbronner, 2007: 19-20). Ex post HRIAs aim to determine the actual impact of activities or policies on human rights.

Outcomes

A Human Rights Impact Assessment provides a sound set of arguments for organisations, companies, academics or policymakers. This can be used to develop recommendations for the improvement of a policy (and its implementation) with regards to meeting human rights standards that governments have committed to through ratification of Human Rights Treaties. The outcomes can be used on all levels: local, national and international.

A Human Rights Impact Assessment helps to:

- make a direct link between a problem, policy, and relevant human rights issues;
- make an assessment of the human rights impact of the policy, both now and in the future;
- form a conclusion about what the government should do and what you can do to press the government into action;
- facilitate implementing a rights based approach within the work of an organisation;
- ask the right questions for a lobbying strategy or for the evaluation of the strategy of an organisation (Bakker et al., 2010: 11).

HRIA offers a research structure that links human rights standards to policies; it empowers users to actively contribute to human rights promotion by showing the relation between the effects of a policy and the human rights obligations of their government. Furthermore, it contributes to awareness-raising regarding human rights; for example, it increases the understanding of people in organisations of the relation between their daily work and human rights standards.

Awareness-raising about human rights situations due to HRIA takes place on two levels. During the HRIA process the awareness of those who are directly involved in the assessment process increases (e.g. government officials that are being interviewed during an assessment). And after the HRIA process has taken place the awareness increases of those who read the results in reports, lobbying documents or case study descriptions. It is therefore important that reports with the outcomes of HRIAs are published, where possible including a reflection on whether and how the recommendations were used (Bakker et al., 2009: 451).

The outcomes of a HRIA can be used on three levels. On local and national level, HRIA helps to improve the human rights situation by providing people with a rights-based approach for lobbying policy makers. On the international level HRIA can help facilitate comparisons between countries on how they each implement the same human rights obligations. This can be helpful when lobbying international institutions such as the World Bank.

Who can use it?

A Human Rights Impact Assessment can be used to serve several purposes. Different actors can use a HRIA, for example NGO's, people who are affected by a

policy, policy makers, academics, international organisations and the business community.

➤ **Non Governmental Organisations**

Human Rights Impact Assessment can be carried out by NGOs. The findings can be used to advocate for policy reforms and to hold a state accountable for fulfilling its human rights commitments. It can help to inform a large group of people about a situation and to communicate concerns more effectively to the competent authorities. Also the outcomes of a HRIA can be used to lobby international institutions and UN agencies or as an input for compiling shadow reports on the various human rights conventions.

➤ **Affected People**

Community based and grass roots organisations, as well as groups which themselves are affected by certain laws, policies, practices and measures can use a Human Rights Impact Assessment. It may be that another group or organisation which is not affected itself by the policy but works closely with groups or communities who are, carries out the HRIA. HRIA tools that are designed for use by groups that are underrepresented in decision-making processes have the additional value of empowering these groups.

➤ **Business Community**

The motives companies may have for using HRIAs are manifold. Within the business community, there is growing recognition of the need to integrate human rights in corporate policies. A company has a responsibility to ensure respect for human rights within the workplace and towards the surrounding community. A number of tools have been developed to facilitate this. Examples of Human Rights and Business (HRIA) tools can be found at the Human Rights Compliance Centre for Businesses¹.

The Business Case for HRIA

There is a strong business case for performing an HRIA:

- Maintaining a good company and product reputation;
- Effective risk identification and management;
- Improvement of stakeholder relations;
- Creating a legal and social license to operate;
- Increased motivation and productivity of workers;
- Understanding the society in which the company works;
- Attractive investment climate;
- Contribution to CSR and sustainable development.

➤ **Governments / Policy Makers**

Governments and policy makers can use HRIA to evaluate their strategy and to implement a rights-based approach. It also helps to assess the human rights impact of a policy, both now and in the future. A HRIA can be of assistance in

¹ See the Human Rights Impact Resource Centre at <http://www.humanrightsimpact.org/themes/business-centre>.

avoiding unnecessary measures and costs. Furthermore, it measures the actual impact of policies and provides practical improvements.

➤ **Academics**

Academics can use Human Rights Impact Assessment to conduct research about a human rights situation in a specific situation or regarding to a specific topic. It provides guidelines to make a direct link between a problem, policy, and relevant human rights issues.

➤ **International Organisations**

International organisations can use HRIA to make comparisons between countries on how they each implement the same human rights obligations. This can help to lobby at international political meetings and committees. International organisations can also use HRIA to implement a rights based approach within the work of the own organisation or for the evaluation of their own strategy.

Time and Resources

The time needed to carry out a full assessment varies between different instruments. It can take up 2 to 5 months in one case, or 3 to 4 months in another case. Some HRIAs include a quick scan; this will take about 1 or 2 days and provides more information about the relevance of a HRIA in a specific case. A quick scan can help to decide if carrying out a Human Rights Impact Assessment is a good means to achieve change. Sometimes a quick scan can be used as a stand alone tool in case a tool is needed to quickly map a problem and the policy concerned.

There are also workshops which will take 2 to 3 days (offered by Aim for human rights). By doing a basis analysis in a short workshop, fact-based and human-rights based arguments are provided that can be used in order to strengthen a lobby. Conducting a Human Rights Impact Assessment does not necessarily mean that things will change overnight. A HRIA allows you to identify problems and possible solutions. Actions based on the outcomes can bring about change. To ensure that the findings are used you can distribute your report widely, engage in a dialogue with those responsible for the policy, and submit the report to various local, national and international authorities.

Challenges

A HRIA tool is no guarantee of a good assessment followed by successful lobbying for improvement of a policy. There are a number of challenges, which can be divided into methodological challenges in the design of HRIA tools and practical challenges in the application of tools.

The methodological challenges refer to indicators and subjectivity; accessibility for marginalized groups; requirements of language, layout, and format; and dissemination strategies. The practical challenges describe the time investment needed to do a HRIA as well as the subsequent lobbying process, difficulties in gaining access to relevant data and the challenge of attributing policy change to the HRIA.

While HRIA developers face more methodological challenges, HRIA users face another set of challenges once they start working with a HRIA tool. Where possible, the tool should anticipate these problems and give adequate information and guidance. Depending on the intended user group of a HRIA, tools should also

provide information on strategies to make the lobbying process successful (Bakker et al., 2009: 451-453).

➤ **Time**

A major issue to overcome is the relatively large amount of time needed to conduct a thorough HRIA. A full assessment could take several months. Often the window of opportunity for effective lobbying does not allow for a study of months and even if it does, NGOs may not be able to spare the time. A tool that facilitates a quick scan of the main issues as well as an in-depth study will therefore serve a wider range of situations.

➤ **Participation**

Participation is closely linked to the challenges of language, layout, and format. This is important for a HRIA document as a whole and depends on more than accurate wording. Participation of grassroots groups depends on the willingness of organisations that have the required language, reading and data collecting skills to involve them in the process.

➤ **Accessibility**

An online, interactive tool could make a tool easier to handle. However, for those who do not have regular access to the internet a paper version is more useful.

➤ **Dissemination**

Another challenge lies in the dissemination of HRIA tools. It takes more than developing a good tool to make HRIA contribute to the promotion of human rights. It also requires a sustainable strategy to disseminate the tool and introduce it to potential users. Organisations need a thorough introduction to understand whether and how they can use HRIA methodology in their work.

➤ **Information gathering**

Sometimes, information is difficult to get access to, unreliable or absent. In those situations a HRIA can help identifying information gaps and exposing the potential abuse of the rights to information. In other cases, the lack of data is related to a lack of financial and human resources; a lack of knowledge about data collection; and a lack of agreement on the type of data to be collected. HRIA tools make a – limited – contribution to improvements in this field by increasing knowledge of the type of information that needs to be collected.

Advantages of HRIA

Human Rights Impact Assessment (HRIA) is a relatively new field of work which has been based in part on existing concepts of impact assessment and other types of strategic planning concepts. The advantage of Human Rights Impact Assessment is that it is a technical analysis which gives elements not only to point out the problems but also binds governments to action.

HRIAs equip users with solid, evidence-based arguments with specific reference to why and how human rights are being violated. Moreover, it empowers people to go beyond identifying problems, by enabling them to propose solutions and claim their rights (Kirkemann Boesen and Martin, 2007).

The evidence-based explanation of the gap between human rights and the reality of what actually occurs in everyday life provides the human rights community with

'ammunition' to hold their governments accountable. This can contribute to policy change. The use of HRIA tools also contributes to the promotion of human rights by facilitating comparisons between countries, by raising awareness about human rights standards and through capacity building on how a rights-based approach can work in practice (Bakker et al., 2009: 454).

A main benefit of HRIA is that it helps users to collect data in a structured way, making a clear link with international human rights standards, and to analyse the effects of a policy.

Performing a HRIA is a learning process. The benefits go beyond the direct outcomes of the study. The process of data collection, analysis and formulation of rights-based recommendations helps people to understand the relation between their daily work and human rights standards in a much more practical way than ordinary human rights training makes possible (Kirkemann Boesen and Martin, 2007).

It has theoretical relevance as a field of study that can enrich and supplement the dominant legal studies in the human rights field. HRIA also has practical relevance: an ex ante HRIA can be of assistance in avoiding unnecessary measures and costs; an ex post HRIA measures the actual impact of policies and provides practical improvements.

Human Rights Impact Assessment - Related Concepts

Human Rights Impact Assessment (HRIA) is a relatively new field of work which has been based in part on existing concepts of impact assessment and other types of strategic planning concepts. These concepts include Environmental Impact Assessment (EIA), Strategic Environmental Assessment (SEA), Social Impact Assessment (SIA), Health Impact Assessment (HIA), the European Commission approach to Impact Assessment and Project Cycle Management (PCM).

➤ Environmental Impact Assessment

Environmental Impact Assessment (EIA) is a long-standing, well developed form of impact assessment. It was developed in the 1960s with the aim of systematically incorporating environmental concerns into decision making. According to the [United Nations Environment Programme \(UNEP\)](#), EIA is a tool used to identify the environmental, social and economic impacts of a project prior to decision-making. It aims to predict environmental impacts at an early stage in project planning and design; to find ways and means to reduce adverse impacts; to shape projects to suit the local environment; and to present the predictions and options to decision-makers. By using EIA both environmental and economic benefits can be achieved. These include reduced cost and time of project implementation and design; avoided treatment/clean-up costs; and impacts of laws and regulations.

➤ Strategic Environmental Assessment

Strategic Environmental Assessment (SEA) is linked to Environmental Impact Assessment. However it aims to develop environmental assessments for more strategic decision making, such as the development of plans and programmes.

According to Nilsson & Dalkmann (*Nilsson, M. and H. Dalkmann. 2001. Decision-making and strategic environmental assessment, Journal of Environmental Assessment Policy and Management (3) 3*), SEA aims to incorporate

environmental and sustainability considerations into strategic decision making processes such as the formulation of policies, plans and programmes.

Partidario & Clark (*Partidário, MR. and R. Clark. 2000. Perspectives on Strategic Environmental Assessment. New York, Lewis*) define SEA as a 'systematic, on-going process for evaluating, at the earliest appropriate stage of publicly accountable decision making, the environmental quality, and consequences, of alternative visions and development intentions incorporated in policy, planning, or programme initiatives, ensuring full integration of relevant biophysical, economic, social and political consideration'.

➤ **Social Impact Assessment**

Social Impact Assessment (SIA) is 'the process of assessing and managing the impacts of a project, plan, program or policy on people,' according to Vanclay (*Vanclay, F, 2003. International principles for social impact assessment. Impact Assessment and Project Appraisal 21 1, pp. 5–11*). It is an overarching framework for the evaluation of all impacts on humans, and it looks at how people and communities interact with their socio-cultural, economic and biophysical surroundings. SIA includes the processes of analysing, monitoring and managing the intended and unintended social consequences (both positive and negative) of planned interventions, and any social change processes invoked by those interventions. Its primary purpose is "to bring about a more sustainable and equitable biophysical and human environment" according to the [International Association for Impact Assessment \(IAIA\)](#). Social Impact Assessment assumes that social, economic and biophysical impacts are interconnected. It can be applied in different contexts and for different purposes, and it can be ex ante as well as ex post

An example of Social Impact Assessment is an assessment of the social impacts of disasters.

➤ **Health Impact Assessment (HIA)**

The World Health Organisation (WHO) defines Health Impact Assessment (HIA) as a combination of procedures, methods and tools by which a policy, programme or project may be judged as to its potential effects on the health of a population and the distribution of those effects within the population. It assesses the health effects of interventions that are not primarily aimed at effecting health, and tries to make policies, programmes and projects health conscious.

➤ **EC Approach to Impact Assessment**

The European Commission has developed an impact assessment process which is used in a wide range of areas to assess the economic, environmental and social impacts of policy proposals. It aims to improve the quality of EC proposals, taking into account their side effects, and to improve and simplify the regulatory environment. It also aims to achieve more consistency between policies and to contribute to sustainable development.

The EC started to develop an integrated impact assessment process to replace all their previous impact assessment mechanisms in 2002, and in 2005 it published a set of guidelines on impact assessment. Their approach to IA consists of six analytical steps and requires stakeholder participation throughout the whole process.

The EC guidelines were updated in March 2006.

➤ Project Cycle Management

Project Cycle Management (PCM) is the term given to the process of planning and managing projects, programmes and organisations. According to [Tearfund International](#) it is used widely in the business sector and is increasingly being used by development organisations. Typically PCM involves the following stages: **Programming / Identification / Appraisal / Financing / Implementation / Evaluation**, with the findings from Evaluation typically feeding back into the Identification phase. This ensures the cyclic approach of Plan – Do – Check/Feedback – Adapt.

PCM uses tools such as needs assessment, stakeholder analysis, logical framework matrix, problem analysis and so on. These tools are the same as are used for human rights impact assessment.

The Eight Step Approach

Aim for human rights developed a comprehensive framework for Human Rights Impact Assessment. It contains eight procedural steps that provide a cyclic approach to policy development and project management.

These eight steps cover **plan - do - check/feedback - adapt** activities. The framework adds to the effectiveness of these activities by helping policy officers and practitioners to learn from their experiences and to use the lessons learned in future situations. Different circumstances require different tools, levels of analysis and indicators. The framework, which is based on basic principles of impact assessment, assists in the development of a HRIA for any topic or situation.

The eight step approach is outlined on the Human Rights Impact Resource Centre².

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² See <http://www.humanrightsimpact.org/introduction-to-hria/eight-step-approach/>.