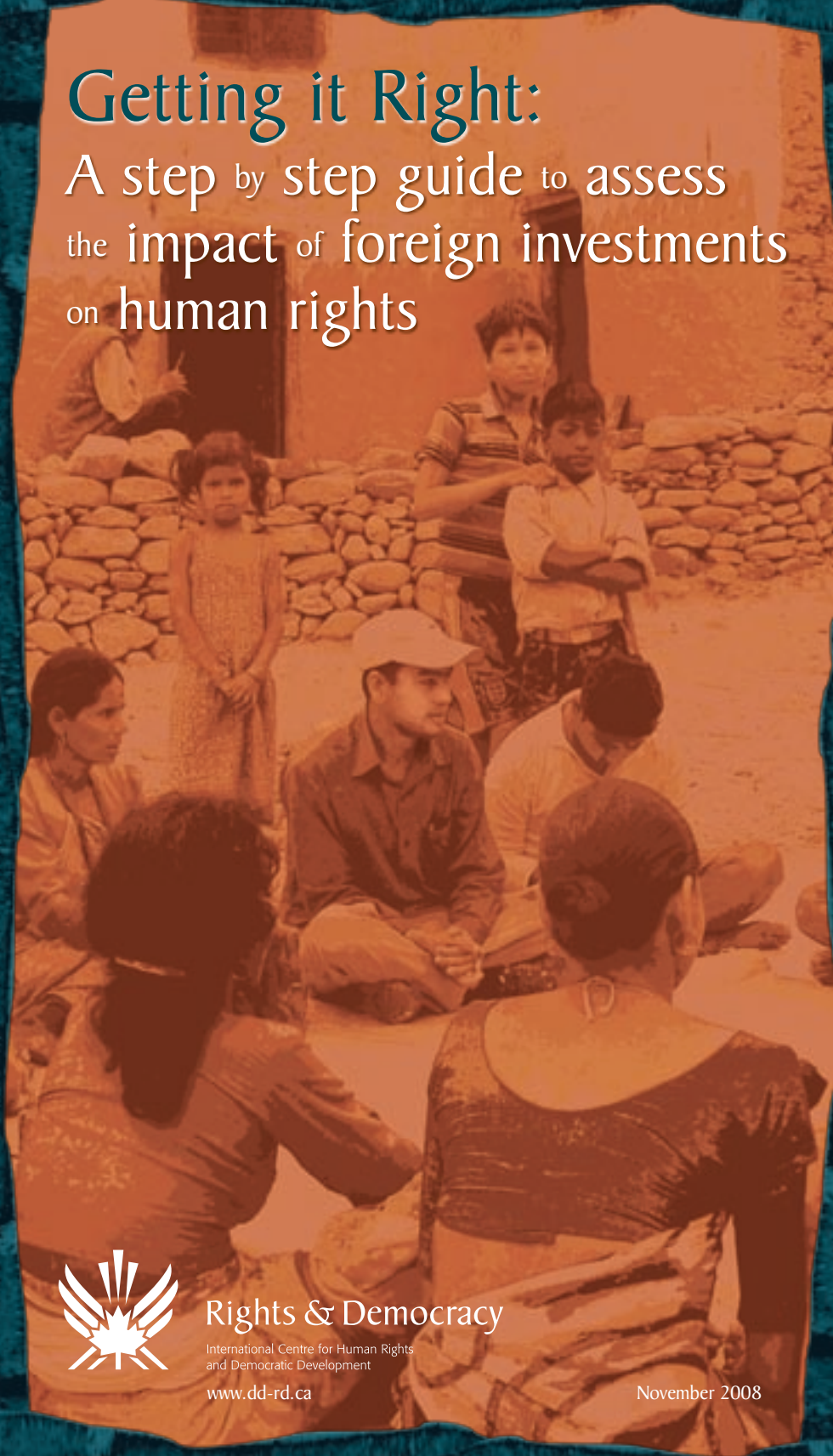
Getting it Right:

A step by step guide to assess the impact of foreign investments on human rights



Rights & Democracy
International Centre for Human Rights
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Overview of the human rights impact assessment project

The arrival of a foreign company in a community can be good news for the local population. Unfortunately, in many cases, the opposite can also be true: relations between communities and the company are sometimes difficult and popular consultation is often limited or nonexistent.

Communities have used various means to make their voices heard, either because they have already experienced negative impacts or because they are concerned that the arrival of a company can have harmful repercussions in the future. Often confronted with a very unequal balance of power with respect to the government and the company in question, the community's concerns are commonly ignored.

A growing number of stakeholders are concerned about the impact of foreign investment on local communities. They are also concerned that human rights are not adequately taken into account. Various solutions – including human rights impact assessments – have been proposed to remedy this problem.

What is foreign investment?

Foreign investment is when people or companies in one country purchase assets, such as land, natural resources, or existing companies, in another country. It can take many different forms such as a mine, a factory, a water system. In this assessment process, we are looking at cases where a foreign company has purchased assets and is managing them. The end result is called an investment project.

Companies use various tools to assess risks pertaining to their investments. However, communities affected by investment projects also need their own assessment tools. Rights & Democracy has therefore developed this guide to assist communities and civil society organizations to identify the impacts of investment on communities and to more effectively voice their concerns. Companies and other stakeholders may also use this assessment guide if they wish to understand the human rights impact of investment from a participatory and community-based perspective.

What is a human rights impact assessment?

A human rights impact assessment (HRIA) is a process to measure the gap between the commitments made by the state (human rights in principle) and the actual ability to enjoy these rights in practice in the country (human rights in practice). By calling on the participation of all stakeholders involved in the investment project, the assessment seeks to identify the rights that are not respected or indications that they might not be respected in the future so that satisfactory solutions can be found.

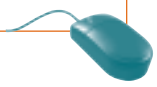
According to international laws as ratified by states, governments must respect human rights, protect their population from violations committed by non-state actors and fulfill these rights. Inspired by social and environmental impact assessments, human rights impact assessments are unique in that they are based on a state's international obligations.

Our experience

From 2004 to 2007, Rights & Democracy developed a draft methodology allowing civil society organizations to determine the impact of investment on the human rights of individuals and communities. This methodology was tested in five case studies in Argentina, the Democratic Republic of Congo, Peru, the Philippines and Tibet/China. This exercise led to the publication of a report summarizing the five case studies and the lessons learned from them (*Investing in Human Rights*, Volume 1). This assessment guide is the result of subsequent revisions of the draft methodology outlined in volume 1.

Investing in Human Rights, volume 1

Human Rights Impact Assessments for Foreign Investment Projects: Learning from Community Experiences in the Philippines, Tibet, the Democratic Republic of Congo, Argentina, and Peru, is available on this CD-ROM or on our Web site at www.dd-rd.ca



What is the HRIA guide

The guide proposes a step-by-step process that allows assessment teams to take stock of the positive and negative impacts of an investment project on human rights. In the case of a planning project, it allows human rights issues to be identified and the potential impacts of the investment project to be foreseen. The purpose of this assessment is to prevent negative impacts and also to encourage the effective participation of communities throughout the life of a foreign investment project.

Throughout the steps mentioned below, information and additional references are provided to help conduct the assessment, including reference documents on human rights, examples of research techniques, relevant Web sites and details on where to find specific information.

To help document the assessment, we provide some initial questions as well as references to various indicators (developed by other organizations). Of course, every project is unique and each assessment pursues its own objectives. Consequently, each team must adapt the questions and even develop new ones in order to ensure that the assessment truly reflects the particular situation, the local context, the type of investment and the communities affected.

Who is the HRIA guide for

The objective of the assessment guide is to allow communities affected by investment projects not only to assess impacts, but also to participate in the decisions that affect them. The proposed methodology is therefore intended primarily for organizations and groups that prioritize the needs and interests of communities. These may include indigenous organizations, workers' unions, municipalities, women's rights groups, and other civil society organizations.

While the guide was conceived for local organizations working directly with the affected populations, it can also be adapted and used by organizations outside the community that wish to accompany local groups in this process. The methodology will also inform company processes that emphasize the participation of local communities.

Using a participatory approach, this methodology seeks to promote the involvement of communities through the entire human rights impact assessment process in order to provide them with the means to become key players in the decision-making process.

What is a human rights framework?

Working according to a human rights framework means observing and analyzing a situation based on the rights enshrined in the Universal Declaration of Human Rights and defined in several other treaties or instruments. This approach makes it possible to clarify the roles of the duty bearers (governments) and rights holders (those living under the jurisdiction of the state).

A human rights framework is based on a certain number of principles. Some of the most important ones are:

1. ***Participation and access to information:*** Individuals have the right to be involved in the planning and implementation of decisions affecting their human rights and have the right to access the information they need for genuine participation.
2. ***Accountability and access to effective remedies:*** Duty bearers (governments) are accountable for implementation of their human rights commitments. Citizens must have access to effective remedies in the event their human rights are violated.
3. ***Non-discrimination and equality:*** All human beings are equal and no person should be subjected to discrimination. Special attention should be paid to any action that could lead to discrimination, especially against the most vulnerable groups.
4. ***Indivisibility of rights:*** All human rights—social, economic, cultural, civil and political—are indivisible, inter-related and interdependent.

Why undertake an assessment like this

There are several situations in which a human rights impact assessment could be relevant. For example:

- A foreign investment project has set up operations in the community or close by and people feel that their life has changed as a result.
- An investment project will be set up in the community and people are concerned about its possible impact on their lives.
- The community would want to maximize the positive impacts and limit the negative impacts of the investment project on human rights.

What the HRIA guide can help you do

In addition to doing an actual human rights impact assessment, this guide can assist with other related tasks:

1. Inform a large group of people about the situation and send recommendations to the stakeholders involved.

The report will shed light on the enjoyment of certain rights in the community. By producing and distributing a report, a large number of stakeholders can be reached and the community's major issues can be communicated to competent authorities and company representatives.

2. Build community capacity.

This approach is designed to help groups conducting the assessment build their capacities, as well as those of the communities affected. Abundant information and various resources are included on the guide and made available to the users.

3. To communicate with the government or the company in question.

The assessment process requires the participation of various people, agencies and organizations involved in the investment project. This can be a good opportunity to establish dialogue with government officials and/or company representatives.

THINGS TO CONSIDER

The limitations of a human rights impact assessment

Conducting a human rights impact assessment does not necessarily mean that things will change overnight. This approach and the report produced allow some of the problems and possible solutions to be identified. Actions, based on the findings of this report, will bring about change. Ways to ensure that the report and its findings do not fall by the wayside and that change is indeed brought about include: distribute the report widely among the major stakeholders; engage in dialogue with company representatives; submit the report to various local, national or international authorities; and, organize training workshops with local communities.

Keep in mind that the project could raise expectations on the part of local populations. It is therefore important to clearly establish, from the outset, what this initiative can and cannot accomplish.

Do you have everything you need

Are you ready to embark on a project of this scope?

Participatory impact assessments require a great deal of time and can spread out over long periods. While the assessment can be conducted over a six-month period, some teams will need more time to carry out all of the necessary activities.

If you are not familiar with human rights, do you know of an organization that could assist you during this process?

While abundant information is included in this assessment guide, some knowledge of human rights may be necessary to effectively carry out all of the steps involved. Since this guide is not intended solely for human rights groups, other types of organizations may also choose to use it. However, the support of an accompanying organization able to fill the gap in terms of human rights knowledge may prove to be a useful option.

If you do not have the financial and/or human resources you need to embark on this process, do you know an organization that could assist you financially? Do you have access to outside funding sources?

Significant financial resources are needed to properly carry out all of the steps proposed. Some of the costs you should consider include salaries for the people conducting the assessment, fees for translating various documents, professional fees for expertise required to complete certain sections, and travel expenses.

If the situation is tense and you fear reprisals that could jeopardize your safety as a result of conducting this assessment, can you rely on outside support to reduce the risks?

Conducting a human rights impact assessment can lead to tension and stress. In some cases, the safety of the participants may be threatened. It is therefore important to enlist the support of individuals and organizations who can mitigate against threat and assist you when such situations arise.

If your team is not composed of members of the community, are you able to establish a relationship of trust with local communities?

Since this is a participatory process, it is crucial to establish a relationship of trust among the participants. You must therefore be prepared to consult with the communities on a regular basis, discuss sensitive issues with the groups involved, and address problems that affect them directly.

THINGS TO CONSIDER

Before you start, there are three things to keep in mind about the human rights impact assessment process:

- There is no one-size-fits-all impact assessment. You may find that some of the suggested steps do not fit your particular situation. Do not be afraid to adapt the process to your own needs, as long as human rights remain at the centre of the investigation.
- You may decide to do the steps in a different order than suggested. Again, do not be afraid to adapt the process to suit your situation.
- Some steps may need to be revisited once or twice. For example, you may want to go back and consult with certain groups or individuals several times. It is important to remain flexible and to adjust the approach so that you reach your goal of completing a human rights impact assessment.

Now, let's get going

This guide is meant to help you assess the human rights impact of a foreign investment project. It is divided into six parts.

a PREPARATION OF THE STUDY

This phase includes the following steps:

Step 1 – Take a preliminary look at the foreign investment project

Step 2 – Build your assessment team

Step 3 – Identify the stakeholders

Step 4 – Protect yourself and your team

Step 5 – First meeting with the community

Step 6 – Set the objectives of the assessment

Step 7 – Think about how you will gather information

Step 8 – Develop a work plan and budget

Step 9 – Contact selected stakeholders

b LEGAL FRAMEWORK

This phase includes the following steps:

Step 10 – What do you know about the country?

Step 11 – What do you know about the company?

Step 12 – Establish the legal framework governing the investment project

c ADAPTING THE GUIDE

This phase includes the following steps:

Step 13 – Select human rights

Step 14 – Select questions

d INVESTIGATION PROCESS

This phase includes the following steps:

Step 15 – The government and the national human rights context

Step 16 – The company and human rights

Step 17 – The communities and human rights

Step 18 – Take stock

Step 19 – Validate information

e ANALYSIS AND REPORT

This phase includes the following steps:

Step 20 – Analyze your findings

Step 21 – Develop a draft report with conclusion

Step 22 – Circulate the draft report for comments

Step 23 – Finalize the report

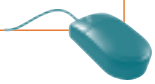
f ENGAGEMENT, MONITORING AND FOLLOW-UP

This phase includes the following step:

Step 24 – Undertake follow-up activities

Share your experience!

If you are conducting an impact assessment in your community, we encourage you to share your experience with us, by emailing your reports as well as any comments on this project to hria@dd-rd.ca



How to install the HRIA guide on your computer?

Step 1 – Preparing your Computer

Before installing the system on your computer, make sure that it meets the following hardware and software requirements:

- Windows 98 or higher
- Internet Explorer 5 or higher
- 600 Megabytes of free space

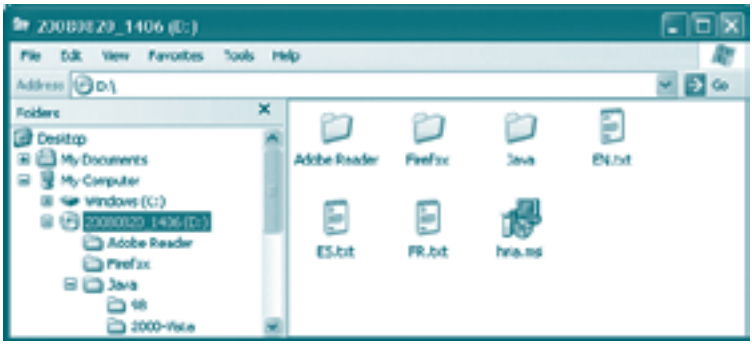
Two additional software programs must be installed to ensure the **HRIA** system functions properly. They may already exist on your computer.

- Java Runtime Environment (JRE) 1.4.2 or higher
- Adobe Reader 6 or higher

If you are not sure whether you have these programs, try to install the version on the CD. If they already exist, the software will inform you that it is not necessary to reinstall them.

Step 2 – Installing HRIA

Insert the CD into your computer and view its contents by double-clicking *My Computer* on the Desktop. If you need to install **Java** or **Adobe Reader software**, select the relevant folder, operating system and language.



To install the **HRIA** system, double-click the **hria.msi** icon.

Follow the installation instructions, clicking *Next* when prompted. Select the default options presented. Press *Install*. When the installation process is complete, click *Finish*.

Step 3 – Running HRIA

You will notice that after installation the **HRIA.exe** icon appears on the *Desktop* and in the Start Menu under programs: **Start** > **Programs** > **HRIA** > **HRIA.exe**

Double-click the **HRIA.exe** icon. A small window will open up and remain on the screen. Press *Start HRIA* to launch the system. It must be active at all times while you are working with the system.

After a few seconds, your web browser will open and display the **HRIA Welcome Page**. Select your language. A new browser window will open. You may now begin using the system. Refer to the **User Manual** on the Welcome Page for more instructions on using the digital HRIA system.

Step 4 – Closing HRIA

To exit the HRIA system, simply close the browser windows and press *Stop HRIA*. You will need to restart your computer before using it again.

Step 5 - Troubleshooting

If the HRIA window does not appear or quickly disappears from view

- Make sure that your computer meets the minimum software requirements listed in Step 1
- Try rebooting your computer
- Try reinstalling the software
- If all else fails, write to hria@dd-rd.ca, explaining your system configurations and any error messages in detail.

If the web browser fails to launch automatically

Open your web browser, whether it is Internet Explorer, Mozilla, Firefox or any other browser. Type in the following address:

http://localhost:8080/ddrd/StartApp.html

The HRIA interface will open and you can begin working with the program. Remember to bookmark the address for future sessions.

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Este documento es disponible en español.

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