

Expert Group Meeting on Developing a Human Rights Impact Assessment

The purpose of the second day of the meeting was to encourage people, in small groups, to discuss in more detail some of the issues touched upon in the preceding day. Some of the themes from the previous day raised either in the presentations or the question period included the following issues:

- 1) Scope – which human rights should be included in a HRIA?
- 2) Stakeholder identification – How do we identify stakeholders through a HRIA?
- 3) Identification of human rights impacts - How do we make sure a human rights screening mechanism works?
- 4) Setting limits - When do we say no to projects?
- 5) Implementation, monitoring, evaluation and compliance – How do we make sure these elements don't get ignored once the EIA has been approved?

But before tackling some of these difficult questions, participants were asked to think through some of the additional challenges of implementing a stand alone HRIA in order to help them think through what processes and practices would need to be put in place to address these challenges. The challenges that groups raised have been organized below into four themes.

Challenges to Developing a Stand Alone HRIA

What issues need to be addressed in the process of developing a stand alone HRIA?

Legal and human rights challenges

How do you identify/demonstrate the connections between the investment and the TNC's activity, and a potential abuse? How do you show complicity? How indirect a connection still remains legally relevant?

The HRIA is rooted in the strong foundation of international human rights law. However international law has a weak legal framework in terms of the obligations it places on states and companies. How do you resolve this?

How do you identify and predict potential human rights violations? Can you mitigate human rights abuses and should that be the goal?

Business challenges

How do you develop a mechanism that does not present to great a disincentive to companies to take human rights into account?

How do you make companies take account of human rights when profit is the motive?

How do you get past the question of commercial confidentiality when transparency and informed participation is a key goal?

Operational challenges

How is the HRIA structured? How do you develop a simple standard methodology that also tackles the complex issue of human rights? How do you devise a methodology that could potentially be used by different constituencies – by government, business people, and communities?

When do you do a HRIA so that it makes a difference?

What is the scope of the HRIA? And how far does it extend? Given that some may have more relevance than others, which rights do we address in the context of trade and project finance, and the project cycle? Equally, does the scope extend from considering project impacts to looking at how trade policies create the conditions that enable these impacts?

In terms of participation, what is the appropriate point of entry – that is, when do you contact the community?

How do you guarantee the early, full and meaningful participation of affected communities given the challenge of challenge of non-disclosure of information and commercial confidentiality??

How do you identify stakeholders and other interested parties? Who do we involve?

How do you establish and encourage participation at all levels? Is it important to consult with groups at all stages of the process?