



Argentina and the Government of Mexico City are implementing innovative administrative and public policy changes to make human rights a reality. Advances in both countries are uneven, though both experiences have important outcomes to share.

MAKING HUMAN RIGHTS REAL: TWO LATIN AMERICAN EXPERIENCES IN THE RIGHTS BASED APPROACH TO POLICYMAKING

SUMMARY

Human rights are not mere discursive concepts on human dignity. These days, consensus dictates that governments who commit to human rights by ratifying international treaties are also required to implement specific domestic measures to fulfill their obligations. In addition to law enforcement and accountability systems, one of the main tools governments can use to guarantee human rights are public policies. Accordingly, some governments in Latin America are taking steps to transform their administrative structures to comply with their human rights obligations. This Brief offers short case studies of the first two Latin American initiatives to integrate a rights based approach in public policies. It analyses the experience of the Government of Mexico City, which has made great strides in implementing the approach, and the case of Argentina, an incipient but promising process to guarantee the realisation of human rights. Though it is too early in both cases to see an impact on human rights *per se*, there are important outcomes in terms of implementing the process itself, outcomes that are significant given the difficulty of enacting such fundamental change. In describing these successes and the contextual factors underpinning them, lessons can be drawn that might be useful for other developing countries considering implementing a Rights Based Approach to address their own human rights challenges.

THE PROMISE OF ADOPTING A RIGHTS BASED APPROACH TO PUBLIC POLICIES

Civil society organisations (CSOs) and international and national human rights public institutions are increasingly calling for incorporating the so-called *Rights Based Approach* (RBA) to public policies as a method to transform those policies' whole focus and purpose. In Mary Robinson's words, a RBA means describing situations in terms of the obligation to respond to the rights of individuals.¹ Introducing a RBA into public policies implies adapting a conceptual framework that is normatively

¹ Mary Robinson was the United Nations High Commissioner for Human Rights from 1997 to 2002. Quote taken from: Robinson, M. Foreword. In: Santos Pais, M. 1999. [A Human Rights Conceptual Framework for UNICEF](#). United Nations Children's Fund, Florence.



based on the international human rights principles. This requires, for example, incorporating into public policies and policymaking processes the set of principles, standards and guidelines emanating from the existing international human rights conventions,² as well other regional and international human rights bodies' rulings and general comments. It seeks to analyse inequalities which lie at the heart of development problems and redress discriminatory practices.

Incorporating a RBA into public policies is particularly relevant in developing regions, as one of the main contributions of this paradigm is its aim to close equality gaps and address injustice. As people are considered rights holders, rather than beneficiaries, the RBA also demands people's empowerment, social participation and consensus-building. Public policies with a RBA can contribute not only to identifying inequalities but also to establishing states' obligations to overcome them.³

The chart below illustrates some of the significant differences between traditional or neutral public policies and public policies with a RBA.

Traditional vs. RBA: Key Differences

Traditional or Neutral Public Policies	Public Policies with a RBA
Discretionary design and implementation aim to solve an issue which is identified as "public" or "social"	Design, implementation and evaluation are based on international human rights standards and obligations
Since they are neutral in addressing structural inequality, policies may reduce inequality, though they may potentially increase inequality	Seek to address structural causes of inequalities and provide redress to discriminatory practices
People are conceived as beneficiaries and, consequently, the policies may induce clientalist practices	RBA pursues empowerment where men and women are considered rights holders
Criteria for assessing implementation are economy, efficiency and effectiveness	Criteria for assessing implementation are non-discrimination, maximum use of available resources, progressive achievement of human rights, citizen participation and transparency and accountability

Sources: Pautassi, L. (ed). 2010. *Perspectiva de Derechos, Políticas Públicas e Inclusión Social: Debates Actuales en la Argentina (Perspective of Rights, Public Policies and Social Inclusion: Current Debates in Argentina)*. Biblos, Buenos Aires.; Office of the United Nations High Commissioner for Human Rights (UNHCR). 2006. [Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation](#). UNHCR, Geneva.

Two Latin American countries have begun experimenting with implementing a RBA to public policies. This Brief describes these two relatively recent experiences, from Mexico City and Argentina, with an emphasis on the methodology that these countries are employing, the contextual factors that made them possible, and lessons learned for other contexts. Since thus far these experiences are relatively undocumented, this Brief aims to make accessible preliminary information and evidence about these two processes, gathered through review of project documents and interviews conducted with professionals involved in implementing both cases.⁴

MEXICO CITY'S EXPERIENCE: FROM INTERNATIONAL PLANNING TO LOCAL SUCCESS

The seeds for Mexico City's RBA were planted in 2002, when a group of CSOs and donors, including [Fundar](#), the [International Budget Partnership](#) and the [Institute for International Education](#), developed a conceptual framework to integrate human rights, public policies and budgets. The process they established consisted of five steps:

1. Identifying the national and international legal human rights framework
2. Identifying obligations stated in the legal framework
3. Producing an assessment of the human rights situation in Mexico City
4. Integrating a RBA into all phases of the policymaking cycle: planning-programming-budgeting-implementing-evaluating
5. Designing public policies with a RBA, even extending to include the budget

Beginning in June 2006, the designers took advantage of an opportunity to test their theory and design about how to achieve a RBA in public policies in Mexico City, transforming Mexico into the first Latin American country to experiment with the approach. The process began as a joint effort between CSOs, academic institutions, the [Government of the Federal District \(GFD\)](#), the [United Nations Office of the High Commissioner for Human Rights \(UNHCHR\)](#) and the [Human Rights Commission of the Federal District \(CDHDF\)](#). These

² For example, the [Universal Declaration of Human Rights](#), [International Covenant on Economic, Social and Cultural Rights](#), [International Covenant on Civil and Political Rights](#), and the [Maastricht Guidelines on Violations of Economic, Social and Cultural Rights](#).

³ Pautassi, L. (ed). 2010. *Perspectiva de Derechos, Políticas Públicas e Inclusión Social: Debates Actuales en la Argentina (Perspective of Rights, Public Policies and Social Inclusion: Current Debates in Argentina)*. Biblos, Buenos Aires.

⁴ Interviews conducted with: Luisella Orozco, Monitoring and Evaluation Mechanism of the Human Rights Programme of the Federal District, Mexico; Ángel Capetillo Acosta, Director of Public Account Integration, Ministry of Finance of the Federal District, Mexico; Julieta Rossi, Lead for the Advancing Human Rights Project, Human Rights Department, Ministry of Justice, Argentina.



participants made up a committee that included more than 58 authors and 76 organisations.

In May 2008, the committee presented its [assessment of the human rights' situation in the city](#), with recommendations. In particular, the Committee recommended creating a budget with a human rights and gender perspective.⁵ Another was to guarantee that public policies and programmes were designed, implemented and assessed with a gender and rights based approach.

Based on these recommendations, a [Human Rights Programme for the Federal District](#) (the "Programme") was launched in 2009. The process for elaborating this Programme lasted fourteen months, using a participatory methodology that sought consensus through more than 150 working meetings where approximately 400 civil society experts, scholars and public officials participated.

The Programme includes public policy recommendations for each human right targeted and for each population group, as well as a legislative recommendation proposing to harmonise laws with a human rights perspective. It also includes specific monitoring and evaluation mechanisms.

The Programme is structured around 2,412 courses of action, such as labelling and increasing the budget for the construction of water treatment plants (No. 743) or actions to reduce youth labour exploitation in the Federal District (No. 1,709). These distinct actions address the complexity and range of the policies and activities of the Mexico City Government. The objective is that the government uses these courses of action for planning, programming and coordinating all city activities from a human rights perspective.

Pilot Experiment

To test the feasibility of incorporating the courses of action into the Government of the Federal District's (GFD) public policies, the government implemented a pilot project from 2009 to 2010. An *ad hoc* working group was created to collaborate with three GFD Ministries: Water, Health and Environment. The methodology they used integrated a RBA to the frameworks of these ministries, all the way from their purpose and goals, to their specific actions and language.

The rationale was that the courses of action could be

matched with the GFD's institutional activities, and that this would ultimately reach to the micro-management level, transforming public policies from the core. These frameworks specify each institutional activity, linked to the advancement of a specific human right, that needed to be developed by the agencies responsible for spending public funds. By modifying the frameworks that public officials use to make public policies, the language of human rights was introduced into Mexico City's policies and the courses of action included in the city's human rights Programme were made operative.

Armed with the lessons from its pilot project, the GFD decided to replicate the exercise throughout the city's entire public administration. In 2009, the government passed a decree mandating that all public agencies in Mexico City incorporate the Programme's courses of action into their policy frameworks for 2010. This change required modifications to administrative documents, training of public officials and, perhaps most importantly, a cultural transformation in budgeting and policymaking practices.

Legal and Administrative Changes

The GFD had to make three major legal and administrative changes to ensure that public agencies comply with the initiative. First, specific public servants were appointed within each public agency to coordinate the implementation of the Programme's courses of action into the institutional activities of their agency, to communicate the information related to the Programme within their organisations and to secure organisational buy-in overall. Although initial results seem to suggest that the mandate of these individuals needs to be strengthened, the fact they have been appointed has been a crucial first step in institutionalising the RBA into public agencies' institutional activities.

Second, the GFD created a new entity to monitor implementation and compliance called the Mechanism for Follow-up and Evaluation of the Human Rights Programme in the Federal District (*Mecanismo de Seguimiento y Evaluación del Programa de Derechos Humanos del Distrito Federal*)⁶. Importantly, the monitoring body included a strong role for civil society participation; three academic institutions and four CSOs share seats with four representatives from government agencies.

Finally, starting in 2012, the GFD created a new tool designed to

⁵ Two other ELLA publications focus specifically on a human rights approach to budgeting. To learn more about how the Mexico City's government linked its budget with human rights outputs, read the [ELLA Brief: Mexico City's Innovation: Budgeting with a Human Rights Approach](#). For publications about human rights budgeting in Latin America, read the [ELLA Spotlight on Publications: Budgets and Human Rights](#).

⁶ For more information, see the [Portal](#) of the CSOs that form part of the monitoring mechanism.



facilitate quarterly reporting. The tool allows for assessing the degree to which public agencies are effectively incorporating the programme’s courses of action into their institutional activities, thus supporting compliance monitoring.

Results

Mexico City’s RBA process is still fairly new; public agencies have only been incorporating the Programme’s courses of action for the last three years. Given this short-time frame, coupled with the reality that RBA involves a profound cultural and administrative transformation, the real impacts in terms of advancing human rights and reducing inequalities still remain to be seen. At this stage, the changes achieved have been mostly in administrative and legal terms, though this itself is a significant accomplishment, especially considering it is the first time that a government in Latin America has decided to design and implement its policies with a human rights perspective *and* taken concrete steps to do so.

In addition to the concrete implementation successes discussed above, one of the initiative’s main achievements came in 2011, when for the first time ever, the city’s budget included a monitoring tool to track resources allocated to the new RBA public policies. That year’s budget contained 844 Programme courses of action that corresponded to 413 institutional activities. The budget covered 47 billion Mexican pesos (around US \$ 4.5 billion) and 18 public agencies.

Over time, the working group became a community of practice that produced a [guidebook](#) for public officials. They are now developing a second version to detail the RBA process - going from knowing a right’s content, meaning the obligations, principles and components, through to the implementation of public policies.

Overall, the GFD is now building a budget with a human rights approach and most public officials have bought into the need for a RBA. This means that the initiative has achieved an important cultural shift, so that now discussions about RBA have evolved to a more technical-implementation level, rather than debates over the necessity of a rights based approach in the first place.

ADVANCING HUMAN RIGHTS IN ARGENTINA: A NEW INITIATIVE EMERGES

In contrast with the Mexican case, which depicts a more complete story of how a RBA to public policies can be

implemented, a second promising case in the Latin American region shows a process whose foundations are just being set. In 2011, the [National Human Rights Secretary \(HRS\) of Argentina](#), alongside the [United Nations Development Programme \(UNDP\) - Argentina](#), began developing the Advancing Human Rights project. Within its first year, the project has a very specific aim: generating a common assessment system intended to measure progress in achieving social rights. Though still in its design and planning phase, the initiative offers an interesting perspective on how a RBA to public policies can be adopted and achieved.

The assessment system is conceived as a mechanism to analyse the status of three specific rights - work, education and social security - at the national and provincial levels. Ultimately, the objective is to provide information on the results and flaws of specific public policies as a starting point for later implementing a full RBA of the type seen in Mexico City. It is also hoped the system will help in establishing explicit goals to enable the state to fulfil its human rights obligations.

The assessment system has four main components:

- 1) Developing quantitative and qualitative rights based indicators
- 2) Mapping existing indicators at the national level
- 3) Elaborating a handbook for formulating, implementing and assessing public policies with a RBA on the three selected rights
- 4) Establishing commitments from the national government - and eventually from the provincial governments as well - to work towards achieving goals and objectives related to these rights

Methodology: Laying the Foundation for a Rights Based Approach

To develop the RBA indicators and the handbook, several human rights regional bodies and standards will be taken into account as a model. For instance, Article 19 of the [American Convention of Human Rights](#), which sets guidelines for elaborating progressive indicators, will be one of the most important references.⁷

These guidelines will be adapted to the Argentinean context through a participatory process. At the end of the process,

⁷ Other references that will be taken into account are the indicators developed by the Inter-American Commission of Human Rights of the Organization of the American States, those created by the United Nations Office of the High Commissioner for Human Rights, and the Millennium Development Goals.



these activities will also lead to the institutionalisation of goals and objectives that will require the government to show results on the three rights.

From Standards to Indicators

Regional and international legal frameworks on human rights provide specific principles which form the basis for implementing a RBA to public policies. To construct the indicators, the project will use data about specific segments of the population. Women, children, indigenous people, afro-descendants and migrants will be represented in the assessment system in order to capture social inequity gaps. Ethnic, cultural and sexual diversity are other important aspects that will be considered.

In addition, the standards enacted by the [Inter-American Commission on Human Rights](#) will also be incorporated to measure the extent to which human rights are protected through deliberative and democratic processes. Indicators will be measured related to four key human rights principles: non-discrimination, access to justice, access to information and social participation.

During project implementation, advances and results will be disseminated to promote adoption of the methodology between all the involved actors. Finally, as this project aims to eventually expand to other MERCOSUR countries, outcomes will also be presented regionally, as well as the internationally. Special emphasis will be made on raising awareness of the necessity to create common RBA indicators.

Roles and Responsibilities

Six main actors lead the process. At the national level, the HRS executes the main leading and coordinating functions. The [Institute of Public Policies and Human Rights of MERCOSUR](#),⁸ along with UNDP-Argentina, will provide technical assistance and promote exchange of regional and international experiences.

The Ministries of Social Security, Education and Work - corresponding to the three rights that are the initiative's focus - will procure professional decision makers and public officials as institutional counterparts. Furthermore, Human Rights Observatories have been set-up in eight Argentinean

provinces. These Observatories will be important sources of local information, and will be in charge of monitoring progress at the local level. They will also be focal points for local-level capacity building on human rights.

One of the fundamental steps in the project was to set up collaboration agreements between the HRS, the thematic ministries and the provincial governments, in order to facilitate the publishing of information and the establishment of goals and objectives.

Finally, a multi-stakeholder consultative council will be formed of human rights experts, CSOs, universities, governmental ministries and diverse international and regional organisations. This council will play an advisory role throughout, particularly in designing the indicators.

KEY COMMONALITIES IN THE MEXICAN AND ARGENTINEAN APPROACHES

Although the Mexico City and Argentinean initiatives are in different implementation stages, the latter still being largely in the design phase, looking across the two cases helps shed light on some common elements of their strategy for incorporating a RBA in public policies.

First, in both cases, an assessment of the current human rights situation served as the foundation for designing public policies with a RBA.

Both initiatives also make extensive use of a multi-stakeholder, participatory approach. For example, the initial assessments were conducted through an open and participatory process involving civil society, national and local human rights institutions, UN agencies and the government. Both cases feature permanent multi-stakeholder bodies that play an ongoing role in implementing and monitoring compliance. This participatory process aimed to assure that the RBA initiative had legitimacy and social support.

Finally, the leaders of the initiatives in both countries recognised the importance of creating an oversight mechanism to monitor the effective implementation of public policies with a RBA. Underpinning these monitoring efforts, both initiatives focus on guaranteeing access to information about progress. In Mexico, the budget includes measurable compliance indicators, while Argentina established sources of continuous data collection through the local-level observatories.

⁸ Launched in 1991, MERCOSUR is an economic and political agreement between Argentina, Brazil, Paraguay, Uruguay and Venezuela. There are also six associate countries: Bolivia, Chile, Colombia, Ecuador, Mexico and Peru.

CONTEXTUAL FACTORS

ENABLING LATIN AMERICA'S INNOVATIONS IN RIGHTS BASED APPROACHES



Mexico and Argentina had both previously committed to human rights by ratifying international treaties and covenants. This legal obligation served as a basis for governments, civil society and human rights institutions to work collaboratively to design public policies with a RBA as a strategy for ensuring government compliance with these legal obligations.

In both cases, political will was present from the beginning. For example, in the Mexico City case, the government was even willing to transform its administrative procedures to ensure effective implementation. Government commitment and support was fundamental for ensuring that bureaucratic routines and processes are transformed to incorporate a RBA, which is clearly a break from the past in terms of the policymaking cycle.

In the Argentinean case, the participation of MERCOSUR as a regional body put pressure on the government to incorporate a RBA, giving them an incentive to exhibit the political will to implement the initiative.

Introducing a RBA requires that much time and effort be spent raising awareness and convincing public officials of the benefits of the process. Consequently, the inertia that often characterises bureaucracies has to be taken into account when designing and

implementing public policies with a RBA. The fact that in the last 15 years the Mexico City government had already developed progressive policies and legal changes ultimately made the process more straightforward.

Support from UN organisations and national and local human rights institutions was crucial, as they provided technical and analytical support and assistance in discussions throughout the whole process. Similarly, previous academic and civil society work in Latin America to develop a theoretical framework to incorporate human rights into public policies provided the technical and analytical foundation for the initiatives.

In the case of Argentina, the judiciary definitely paved the way for introducing a RBA into public policies. After years of increasingly using international jurisprudence as a guide on constitutional rights, a new scenario of guaranteeing human rights emerged, one that demanded affirmative policies. Beginning in 2000, a human rights discourse had started to be incorporated in public policies, in particular policies that focused on assisting those not incorporated in the formal labour market; however, in practice these policies were not fulfilling international obligations and standards, offering ample opportunity for applying a RBA.

LESSONS LEARNED

- 1 As a new and different approach to policymaking, incorporating a RBA requires spending much time raising awareness and convincing stakeholders about the benefits of reform. Consequently, in the Mexican Federal District there were numerous changes that needed to be pushed forward relating to how bureaucracies function and how public officials perceive themselves and their work. The Argentinean process is in this stage now, where authorities and public officials still have to be convinced, and then trained.
- 2 The micro-management or implementation level seems to be the most difficult for a RBA to permeate, due not only to the many changes and specific actions this paradigm demands, but also to bureaucratic inertia. Capacity building and raising awareness among public servants is therefore most important at this level.
- 3 Support from, and dialogue with, international and local organisations was crucial. In addition, the participation of the three levels of government - national, regional, and local - helped put the process on the political agenda. In particular, the executive played a major role attending most of the meetings and providing significant information.
- 4 Though political will was crucial in both examples, it is not enough to successfully implement a RBA. There is also a need for reliable technical capacity and the ability to identify problems - such as through sound participatory assessments.

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