



Human Rights Budgeting (update October 2010)

1. Introduction

This brief gives an overview of the experiences made with human rights budgeting by governmental and non-governmental initiatives. These initiatives make public finance more participatory and transparent and tie it to fulfilling the state's human rights obligations: limited resources should be allocated and spent in such a way that supports marginalised or disadvantaged groups.

The focus of this paper is on budgeting initiatives that have explicitly used human rights standards (e.g. the right to health or education), and those initiatives that intend to support the rights of specific population groups (e.g. women or children). In addition, the brief demonstrates how participatory budgeting at local level can contribute to the realization of human rights.

What this paper wants to achieve:

- to introduce human rights budgeting as an instrument that adds value to development cooperation, and
- to give fresh ideas to development practitioners in the fields of public finance, good governance, decentralisation, and support to civil society.

In terms of development policy, the paper shows innovative options to

- strengthen cooperation between public administration and civil society and enhance vertical accountability (public institutions towards citizens);
- support horizontal accountability (control between state institutions) of partner institutions;
- clarify human rights obligations on the national, regional and local level and in different sectors.



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2. What is Human Rights Budgeting?

The ratification of international human rights treaties obliges states to respect, protect, and fulfil all human rights contained in the treaties. Human rights budgeting is a particularly powerful instrument to monitor whether a state or its decentralized authorities and subsidiary institutions use its available resources (including those of [international cooperation](#)) to fulfil human rights. Article 2 (1) of the International Covenant on Economic, Social, and Cultural Rights ([ICESCR](#)) obliges a state to use „the maximum of its available resources with a view to achieving progressively the full realization of the rights recognized in the ... Covenant by all appropriate means...“ Similar provisions are found in the Convention on the Rights of the Child ([CRC](#)) and the Convention on the Rights of Persons with Disabilities ([CRPD](#)).

Overview: Which human rights have been used in budgeting initiatives?

- Right to an adequate standard of living ([ICESCR](#), art. 11);
- Right to the enjoyment of the highest attainable standard of physical and mental health ([ICESCR](#), art. 12);
- Equal right of men and women to the enjoyment of all human rights (art. 3 in the [ICCPR](#) and [ICESCR](#), Convention on the Elimination of All Forms of Discrimination Against Women ([CEDAW](#));
- Right to education ([ICESCR](#), art. 13);
- Rights of children ([CRC](#));
- Right to take part in the conduct of public affairs ([ICCPR](#), art. 25);
- Right to information ([ICCPR](#), art. 19 (2)).

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- analyse the budget with respect to human rights obligations,
- influence budgetary allocations to better realize human rights.

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Ideally, at the end of the process, allocations and expenditures are audited and monitored with respect to the outcomes anticipated.

The basis for the analysis of the status-quo and the desired results are the rights contained in the international human rights treaties. Most of these have been ratified by Germany and its development partners. The UN expert committees monitoring the implementation of the treaties (so-called treaty bodies) have interpreted most human rights in [General Comments](#). These define the substance – or core elements – of each human right and give guidance on how to put them into practice.

Core Elements of the Right to Education

Availability

- Functioning educational institutions in sufficient quantity, availability of educational material, free primary education, qualified teachers and adequate payment

Accessibility

- Financial and geographical accessible educational institutions, free primary education

Acceptability

- High quality form and substance of education, culturally relevant and appropriate to students

Adaptability

- Flexibility of education, able to adapt to the needs of and changes in a society

Abridged from: [CESCR-Committee, General Comment 13 \(1999\)](#)

There are similar interpretations for the [right to adequate housing](#), the [right to water](#), the [right to adequate food](#), the [right to health](#), the [right to work](#) and the [right to social security](#).

The core elements defined in the General Comments can be used as a basis to assess



whether budget allocations are sufficient and adequate to fulfil human rights obligations.

Such an analysis usually looks at the relative weight of specific items in the budget. For example: The budget allocated to subsidizing private schools that cater for children from middle and high-income families may be proportionately higher than the budget for public schools serving low-income sectors of the population. A [human rights budget analysis](#) would suggest that the Government's priorities may not be in line with its international obligations.

Next to the General Comments, there are other reference materials helpful for human rights-based analysis. Among them are the country-specific [Concluding Observations](#), also issued by the treaty bodies, and human rights relevant [indicators](#), developed by the High Commissioner for Human Rights and other human rights actors. Human rights indicators capture the status and processes of implementation of specific human rights; many are based on MDG indicators.

In addition to examining the status of human rights implementation in the budget, a human rights analysis considers how the budgeting process and actual spending account for key human rights and good governance principles, namely transparency, accountability, participation, and non-discrimination.

Checklist for a human rights analysis of the budget

Planning of expenditures

- Do allocated budget items (e.g. subsidies) reach right-holders in need and most vulnerable?
- What is the relative weight of expenses for the implementation of human rights obligations (e.g. improving access to essential services for persons and groups without access) compared to other expenses, e.g. for the military?
- Are some population groups favoured directly or indirectly by allocation policies?
- Do budget allocations serve to overcome barriers and to reduce existing discrimination?

Budgeting process

- Does the population and civil society have access to timely, intelligible, and comprehensive information on budget allocation and spending?
- Are there possibilities for the population and civil society organizations to influence the process?

Monitoring and auditing

- Which institutions hold the public administration to account and are the monitoring and auditing results publicly available?

Expenditure and revenue are two sides of the same coin in public finance. Reforms in public finance and budgeting initiatives thus need to tackle not only transparent budget allocation and spending but also revenue generation.

Revenue analysis may cover the different types of taxes as well as revenue from natural resources and from international cooperation. Depending on the issue at stake and the policy environment, revenue analysis can take many forms. In [Croatia](#), for example, the Institute of Public Finance analysed the effects of the tax distribution system between 1997 and 2004. The study found that a raise of the income tax allowance and the introduction of additional tax rates resulted in a higher distribution equality.

Human rights budgeting supports transparent, efficient and fair taxation and the fight against corruption. [Non-governmental organisations \(NGOs\)](#) and [bilateral development cooperation](#) have made important contributions to achieve this.

Influencing the budget

Influencing the budget can take place during four phases of the budget cycle:

- drafting by the executive,
- debate and passing of the budget by the legislative,
- implementation by the executive,
- auditing by the legislative and specialized audit institutions.



Technical Cooperation can offer advisory services on all levels and during all phases. [Civil society organisations](#) have good lobbying opportunities during the legislative debates, be it before the budget is passed or when the audit is discussed.

Human rights budgeting usually employs a mix of strategies. Among those are:

- advise parliaments, their committees, local councils and audit institutions;
- strengthen public finance skills in ministries and local governments;
- support capacity development of civil society organisations, particularly in representation of marginalised groups; as well as
- support a critical public debate on the budget, in the media and by public hearings.

Devising alternative budget allocations – and thus policies – is generally an important instrument in budgeting work. In this fashion, it can be calculated how much a state is able to and should spend to fulfil, for example, the right to free primary education. In doing so, hidden or long-term costs of human rights-relevant budgetary decisions become transparent – for example those accruing from the discrimination of women, the lack of preventive health care, or from discrimination in educational opportunities.

Civil society budget analysis and advocacy can help to impact government budget policies. After the devastating earthquake in 2005, the government of Pakistan issued a reconstruction plan. Among others, the plan earmarked US\$1.5 billion to build and reconstruct about 600.000 houses. When the authorities ended the project in 2007, an analysis of the [Omar Asghar Khan Development Foundation](#) proved that only 9% of the actual plan had been fulfilled. The Pakistani civil society organisation launched a campaign to hold the government accountable for their promise. And while limited, the

campaign was successful in that reconstruction continued, and until August 2009, 31.6% of the overall planned projects including water/sanitation, health, housing and education were completed.

Why Human Rights Budgeting?

Realizing human rights is an independent goal of development policy (cf. BMZ, [Development Policy Action Plan on Human Rights 2008-2010](#)) and as such binding for development cooperation. In addition, human rights are of instrumental value. They secure human freedoms and the capabilities to choose and act, be it in the political, the economic or social sphere. This is a prerequisite for the development process to be inclusive and beneficial and empowering to all. A human rights perspective transforms exclusion and discrimination from a moral issue into a legal one - that is into an infringement or violation of human rights. Such an approach concentrates on the root causes of poverty, and supports the mainstreaming of gender equality and good governance.

The human rights-based approach provides added value to public finance reform. Human rights offer clear-cut criteria on how to set priorities for budget allocation in specific sectors. Human rights also offer guiding principles for the budgeting process as such and enhance citizen participation, transparency, and accountability. In addition, referring to internationally acknowledged, nationally ratified, and legally binding standards provides development cooperation – and local civil society – with discursive power when debating national reforms in public finance. Referring to human rights obligations entailed in the ratified international treaties also supports partners' ownership of development strategies and supports horizontal accountability in partner countries.

Human rights are particularly helpful when budgetary decisions need to be taken within a given sector, for example when deciding



which investments in water and sanitation are to be given priority and for which population groups. In [Nicaragua](#), for example, only 20% of the indigenous communities in the Northern and Southern Autonomous Administrative Regions of the country have access to water. The 2007 Law of National Waters included the human right to drinking water, and UNDP concentrated its support to Nicaragua on these regions and communities.

Human rights cannot answer the thorny question whether one should allocate more for primary education or for health, but they do provide some guidance. When working for the fulfilment of one human right this may not lead to retrogression with respect to what has been achieved in the fulfilment of other human rights. In addition, policy-making needs to be participatory, transparent and inclusive.

Overall, human rights formulate qualitative standards which enrich quantitative development goals like the [MDGs](#), and thus contribute to maximize pro-poor development impacts.

The relationship between international human rights and domestic legislation

International human rights treaties oblige ratifying states to translate the international obligations into the constitution and domestic legislation. How this is done, differs from one legal system to the next. Furthermore, human rights treaties oblige states to develop policies and to take measures to enforce the specific national legislations issued in accordance with international obligations. Institutionalizing remedies for violations and non-enforcement is part of this process.

Translating human rights obligations into national law is a prerequisite for national possibilities to claim human rights – which, in turn, is key for holding domestic institutions to account.

Together with partner institutions, development cooperation, and in particular technical cooperation, should check national legislation for its human rights conformity. If legislation conforms to international human rights standards, human rights-based development cooperation may refer to national standards. If domestic laws are not in conformity to international obligations or are not enforced, development cooperation should support

partner countries to adjust legislation and/or improve enforcement. In this case, public finance reform or budget work should be framed in terms of international human rights standards.

3. Approaches and Initiatives in Human Rights Budgeting

Current [budget initiatives](#) attempt to further the implementation of

- specific human rights, for example the right to health or adequate housing;
- human rights for specific groups of right-holders, for example women, children or persons with disabilities.

In addition, more and more groups engaged in [participatory budget work](#) also refer to human rights. As sketched out above, this work may also contribute to strengthening key human rights principles, like participation and transparency, by focussing on the quality of budget planning and spending. In what follows we introduce experiences from all three forms of budget initiatives.

H3 Using the Budget to Implement Specific Human Rights

Social Protection for Children [in South Africa](#)

South African civil society organisations have successfully been speaking up for the protection of vulnerable children through social security grants. The 1996 Constitution obliges the government to progressively realize the right to social security within its available resources. However, an analysis of the governmentally run child support grant showed, that the grant did not reach the poorest women and children. Despite the more extensive poverty in black communities, only 0.2% of children in those communities received the grant. In addition, the value of the grant had fallen in real terms since its introduction in 1998.

Since 2000, civil society used budget analysis and advocacy work (including awareness raising, litigation, engaging with government authorities). In the end, the South African government implemented a number of reforms:

- The grant that was introduced in 1998 at US\$14 is now at US\$35 per month.
- The grant is no longer only available to children under 7, but now also to youths up to 18 years old.



- The number of beneficiaries rose from 1.9 million to over 9 million in 2009.
- Budget allocation for the grant scheme has increased from US\$315 million in 2001 to US\$1.89 billion in 2008.

Government officials have acknowledged the value of civil society research and its poverty-fighting character. The work has led to changes in both how the budget is allocated and how the government perceives its responsibility for the social protection of children.

The Center for the Implementation of Public Policies for Equality and Growth ([CIPPEC](#)), an Argentinean think tank, followed a similar approach with respect to the right to education. CIPPEC tracked public expenditure for education systematically. They achieved a more thorough enforcement of a national law providing for higher allocations for education. The Tanzanian NGO [Hakikazi](#) likewise uses public expenditure tracking, and applies it across different sectors.

Using the Budget to Implement Human Rights for Specific Right-Holders

All individuals have human rights. But some persons and groups of persons are particularly vulnerable to exclusion or discrimination and other violations of human rights (e.g. women, ethnic minorities, persons with disabilities). Others have additional needs for protection, e.g. children. This is why there are treaties, in which human rights are further specified for particular groups of persons.

Specifications of Human Rights

- Convention on the Elimination of All Forms of Discrimination against Women ([CEDAW](#))
- Convention on the Rights of the Child ([CRC](#))
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families ([ICRMW](#))
- Convention on the Rights of Persons with Disabilities ([CRPD](#))

In addition, the International Convention on the Elimination of All Forms of Racial Discrimination ([ICERD](#)) is often used to protect rights of minorities and indigenous peoples; the ILO [core labour standards](#) are helpful for the protection of labourers' rights at work.

When budget allocations are made, no population group may be directly or indirectly discriminated against, and allocations must support equality of opportunities. This implies taking into account special needs and removing barriers, e.g. those preventing linguistic minorities from accessing the educational system. Temporary special measures may also be helpful since they contribute to achieving equality for discriminated groups, e.g. quota for women or additional resources for disadvantaged neighbourhoods.

Women's rights have been the first to be addressed by budgeting initiatives. Accordingly, there is a large number of [experiences](#) with gender-responsive budgeting, and corresponding [instruments](#). Gender-responsive budgeting analyses the impact of the projected allocations on gender equality and suggests alternative, fair allocations if necessary.

[Gender budgeting](#) aims to reduce gender inequalities and to promote gender-sensitive development policies for poverty reduction. By now, gender-budgeting is in use [world-wide](#); even – in spite of its political situation – in Zimbabwe. In 2007, the [Zimbabwe Women's Resource Center and Network](#) launched a collaborative partnership program between civil society and the government. The gender budgeting program is part of the government's [result-based budgeting](#) approach which mandates public consultations for the budgeting process. Since 2009, the gender budgeting process is now shaped by government and the civil society. The government established Gender Focal Persons in the ministries who are at a decision-making level and identify gender gaps in policies within the ministries and help to produce gender sensitive budgets. Among civil society, the Zimbabwe Women's Resource Center and Network empowered communities and formed a network. The



latter, using the acquired gender-skills, is now calling for more transparency of governmental expenditure and tax revenue.

The GTZ project [Gender-oriented Fiscal Policy](#) supports similar processes in Latin America.

Gender Budgeting: [Lessons Learned](#)

- Integrate the gender budgeting exercise in the main budget planning process, do not establish parallel structures;
- Look pro-actively for cooperation with civil society;
- Set clear and specific outcomes to be achieved by gender budgeting; those outcomes should have obvious and measurable value added;
- When working with expenditures, also look at revenues and revenue generation.

The first explicit human rights budgeting initiatives for specific groups of right holders started in the mid-1990s. The protagonists were civil society groups in South Africa, and they focussed on children's rights. In addition to the Convention on the Rights of the Child ([CRC](#)), they used the [Concluding Observations](#) by the [treaty body](#) that monitors the implementation of the CRC. This Committee on the Rights of the Child regularly requests ratifying states to increase the resources dedicated to the realization of children's rights.

The organization [HakiElimu](#) launched a campaign from 2004 to 2007 to improve education for children in Tanzania by using budget analysis and advocacy. The civil society organisation focused on the quality of education following a report by the Tanzania Teacher's Union revealing issues around late and low payment, poor teaching quality and working conditions. As a result of the campaign, the government agreed to punctual payment, a raise of the minimum wage and also to the recruitment of more teachers for primary schools. Schools are now better equipped, accessible for children with disabilities, and violence-free: teachers stopped canning the pupils. HakiElimu's campaign demonstrates the value of solid

research to support advocacy, of making human rights information accessible to the public and engaging with the government for better human rights implementation.

Participatory Budgeting Initiatives: Their Contribution to Realizing Human Rights

There are a number of initiatives aiming at citizen participation, transparency, and accountability in the budgeting process. While many of these initiatives still do not refer explicitly to human rights standards, they have an important contribution to make to realizing human rights.

Starting in Latin America in the late 1980s, there have been several initiatives on participatory budgets. Citizens participated in planning, implementation and auditing of the budget on the local level. By now, there are a number of [experiences](#) and modalities for implementation of these initiatives, which are usually called participatory or citizen-budgets. German Technical Cooperation has supported the design and implementation of many of these initiatives.

A particularly prominent example for citizen participation comes from the Brazilian city [Porto Alegre](#). A [study](#) from 2000 records the results of this initiative: Access to water and sanitation increased considerably (from 80% to 98% respectively from 46% to 85% of all households), annual road construction in poor urban neighbourhoods exceeded 30 km, and school enrolment rates doubled. It was mainly poor households and neighbourhoods who benefited from the public investments.

In other Brazilian and [Latin-American cities](#) citizens have urged local governments to introduce similar processes, and by now there are a number of success stories even in [Europe](#).

In [Asia](#) local governments have started more recently to implement participatory budgeting programs. In [Indonesia](#), for instance, ministerial regulations and decrees support decentralization, and also require



transparency and consultation on the draft annual budget. The regional NGO Asia Foundation carried out a pilot project which revealed the need to ameliorate the implementation of public participation. After an agreed participatory budgeting strategy; the NGO initiated local budget forums to develop the principles and practices of budget work in local governments; and developed an action plan on how to replicate participatory budgeting approaches. They also held regular meetings with civil society representatives and offered budget literacy workshops for civil society, teachers, entrepreneurs etc. The success of this project is reflected in the Local Government Action Plan which envisages increased communication, people's participation in budget implementation and the allocation of a budget percentage that is directly distributed to the sub district level.

On the African continent, the social audit methodology of [The Institute for Social Accountability](#) in Kenya follows a similar bottom-up approach by empowering local communities. Participatory budgeting is often supported in the context of good governance and decentralisation. It is a useful instrument to increase and institutionalize citizen participation with respect to local public finance.

It is obvious what participatory budgeting can do for the realization of human rights. It gives practical meaning to key human rights principles – such as participation, transparency and accountability. If participatory budgeting additionally focuses on disadvantaged groups and non-discrimination, these initiatives can also support the equality of opportunities and empowerment of communities.

Increased discursive power and legitimacy is the main value added of a more explicit human rights language and orientation in participatory budgeting. Being explicit about human rights clarifies that citizen participation and access to information are not only

elements of good governance but internationally acknowledged and nationally ratified human rights obligations. More explicit human rights language may also support the long-term institutionalization of participatory budgeting and thus sustainability.

4. Conditions for Success

Human rights budgeting implies a political approach to economic and fiscal processes, and is demanding in terms of public finance and human rights expertise.

With due consideration to the differences between countries and experiences described above, one can still distil some conditions which need to be in place for human rights budgeting to be successful:

- A willingness of relevant political and administrative actors to open up the political system, to reform public administration and to implement human rights obligations in a participatory manner;
- Acceptance of the rule of law and meaningful democratic participation; an independent judiciary, which may enforce the right to information, is an added plus;
- Willingness of government and civil society to cooperate for a specific common goal;
- Existence of civil society organizations, with the potential to mobilize the population and initiate broad networks.

But even under ideal socio-political circumstances, there remain a number of challenges for human rights budgeting initiatives, whether they relate to the analysis of the budget or the planning process. The most common challenges, for civil society organisations and state institutions alike are:

- [Lack of access to key budgetary data](#);
- Extra-budgetary revenues, e.g. from [natural resources](#) or [foreign aid](#);
- Lack of access to tax-relevant data;
- Lack of statistics, disaggregated by grounds of discrimination;



- Lack of spending discipline or lack of transparent spending habits, due to corruption or mismanagement;
- Lack of technical capacities to analyse, implement and audit the budget.

Another challenge relates to the human rights discourse itself: Human rights are interdependent and indivisible, that is of equal importance. However, interest groups in the political sphere are of unequal strength and influence. Some may push successfully for certain topics or the rights of certain groups and the rights of others get sidelined.

Negotiations with respect to the budget thus need to be transparent, participatory and inclusive. They must aim for a fair and sustainable socio-political consensus. For development cooperation this implies supporting capacities for budgetary work of those in charge in state institutions (e.g. parliamentarians, auditors, and financial administration) and a broad array of strategic civil society actors.

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