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EVALUATE PUBLIC POLICIES WITH A HUMAN RIGHTS APPROACH

Carlos Ricardo Aguilar Astorga
PhD in Social Sciences in the Area of Power Relations and Political Culture by: Universidad Autónoma Metropolitana, unit: Xochimilco
Institution: Universidad Autónoma Metropolitana, Unit: Lerma. Department of Social Processes.

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Abstract: This work tries to sustain that the evaluation of public policies with a rights approach implies specific changes in the phases of the policies: a) the public problem must be described as the violation of a human right, b) the selection of alternatives, many Sometimes they are not made thinking about the adaptation with the international norm of DDHH (Treaty, Pact, Agreement) so that in a universal and progressive way the human right can be accessed; c) the formulation of policies would have to adapt and take up the objectives, goals and indicators of international rights regulations; d) in the implementation of policies, monitoring and follow-up are insufficient and non-binding, it is necessary to opt for real participation of the populations involved in the problem to be solved; e) regarding the ex post evaluation, two things are proposed: 1) verify compliance with the human right of public policy based on international treaties and 2) verify the associativity of access to the right obtained as a possibility and enjoyment of others rights, this is a progressive interrelation.

Keywords: evaluation, human rights, international standards, citizen participation, public policy.

INTRODUCTION

It can be affirmed that the governmental, social and private sectors agree to govern by supporting public actions taking public policies as their orientation. However, this often does not go beyond the discursive and the rights approach to policies does not transcend implementation. This means that human rights in the implementation of actions planned from the designs, do not have sufficient strength, ending up in bureaucratic and administrative inertia that prevent a right from being guaranteed.

This work will try to sustain that this is partly due to the fact that the rights approach in the different phases of politics is ignored, so we have that: a) the public problem is identified as a lack, as the absence of a service, as a poorly attended need, etc., but never as a violation of a human right, b) when alternatives are selected, many times they are not made thinking about the adaptation with international human rights regulations (Treaty, Pact, Agreement) so that in a way universal and progressive access to the human right, on the contrary, the selection of indicators is made based on their obtaining; c) the formulation of policies would have to adapt and retake objectives, goals and indicators that international human rights regulations already offer; d) in the implementation of policies, monitoring and follow-up are insufficient and non-binding, it is necessary to opt for real participation of the populations involved in the problem to be solved; e) Regarding the ex post evaluation, it is necessary to overcome the traditional visions that segment the phases of the policy and that for this reason have little interference, two things are proposed here: 1) verify the compliance of the human right of the public policy with based on international treaties and 2) verify the associativity of access to the right obtained as a possibility and enjoyment of other rights, this is a progressive interrelation.

Although, what interests us here is this last phase as an evaluation; The truth is that this last phase of the policy cycle has to be associated with the problem, design, and implementation. We cannot hope to evaluate ex post efficiently if we do not see the entire policy process. Doing it from the rights approach is the main bet of this work.

PUBLIC POLICIES WITH A HUMAN RIGHTS APPROACH

Briefly, each of the phases of public policy with the rights approach will be exposed, namely: public problem, selection of alternatives, formulation, implementation

and the ex post phase of the evaluation, we will leave it in a later, more general section.

It is necessary to insist that betting on the policy phases scheme is fully aware of the limitations that this implies, since it is not new that this sequential approach is limited. No one doubts at this point that talking about gestation, formulation, implementation and evaluation is not only open to criticism, but for many it is an exhausted scheme. However, taking risks with this scheme allows analytically discerning the different stages, which although in reality they are not linearly interconnected, analytically they allow disaggregation and rational and orderly treatment.

PUBLIC PROBLEM AND RIGHTS APPROACH

Detecting or discussing what is a public problem occupies a large part of the initial literature on public policies, however, its approach is often due to circumstances or the need to adjust budgets to a specific demand. If we want to see the public problem with a rights approach, it will be necessary to stop seeing it simply as the absence of a good or service, since, as Cohen and Martínez (s/f) point out, this absence determines the solution hypothesis a priori, that is, in the absence of a service, it will be one that will occupy the place of solution; rather, it will be necessary to observe the problem as a violation of human rights, for example, when talking about the problem of insufficient water in certain areas, many times the criteria to solve it is technical, in such a way that what occupies the place of the solution is to provide infrastructure. Although this is elementary, it is not enough, since seeing the water problem as a violation of the human right to water goes beyond thinking about infrastructure. The same happens with issues such as education or health, which are traditionally attended to by schools and hospitals without taking into consideration teachers, educational systems or medical equipment or health professionals, etc.

POLICY FORMULATION: SELECTION OF ALTERNATIVES WITH A RIGHTS APPROACH

By policy formulation, we will understand that phase of the policy that, having already identified a problem, discusses different alternatives to address it. It is therefore a moment that discriminates action options based on what is available, which is why cost-benefit, cost-effectiveness analyzes have gained importance in this phase, since they are selection criteria compared to what is really available.

As could be observed in the previous section, it is very common that since the public problem is gestated, it brings with it its solution; It is usual to determine the problem based on a predetermined idea, however, this is risky since the possible offer determines the problem.

In order to really select alternatives and discern about them, it is necessary to put the above as an option and not as the only criterion, that is, to have different policy hypotheses in the pre-planning, especially those that have territorial knowledge of the problem and not only those that are structured as all-encompassing tools.

This is precisely what stands out at the present time, where different models have seen their exhaustion and some others are considered as alternatives. Undoubtedly, the hypotheses that were once profitable and even agreed upon are what must be rediscussed at this time. The current crisis will force us to build collective solutions and not opt inertially for those that were believed to be infallible or unique. In this sense, not only the rights approach transfers the possibilities of change

in the formulation but also in the social and government agendas that are not a secret to anyone that are also subject to discretionary political agreements that prevent broad and deep discussions.

Returning to the technical point where the selection of alternatives is traditionally approached from cost-effective profitability, it must be said that it is not a matter of breaking with these criteria but of not making them preponderant.

THE RIGHTS APPROACH IN POLICY FORMULATION OBLIGES THE MAKER AND THE POLICY ANALYST TO MAKE IT POSSIBLE FOR THE SELECTION OF ALTERNATIVES TO BE PROGRESSIVE AND UNIVERSAL

IMPLEMENTATION, THE "START-UP" WITH A RIGHTS APPROACH

It is believed that the implementation of a more or less structured strategy, that is, with a good diagnosis, theory of change, objectives, goals and indicators, the execution of a project will be quasi automatic; However, the evidence shows that this phase is by itself much more problematic than what is thought or believed, moreover, the implementation is something like an ungovernable phase, since it poses a series of technical-political variables that they concomitantly modify any policy design, no matter how rigorous it may be.

Part of the complexity in the implementation is that the decisions are never finished, but it is a field where different actors have different levels of influence and that it is difficult to stabilize, or rather, the moments of relative stability obey the dominance of the actor. who exercises power more efficiently.

Faced with this asymmetry, prior decision-making is insufficient to maintain the designs in their original versions. The relative power that the multiplicity of actors involved manifests,

sometimes goes against the initial approaches; What must be highlighted here in order to be able to talk about the rights approach is what is the role of the recipients of the policies vis-à-vis the affected administrators and the mobilized executors? It is no coincidence that on many occasions, and especially when it comes to vertical policies where citizen participation is minimal or that contemplate the public in its passive and receptive character, its power in implementation is minimal.

EVALUATION OF POLICIES WITH A RIGHTS APPROACH

The field of evaluation is a field that has had a very wide and considerable growth, there is a wide range of well-defined evaluations in quite developed typologies, however, when talking about evaluation with a rights approach, it poses a series of challenges that go beyond the traditional schemes. From the perspective of human rights, the evaluation considers criteria that the typology in vogue hardly touches, since relating evaluations, whether quantitative, qualitative, comprehensive or mixed, they forget, on the one hand, their link with compliance with international treaties, and on the other, the integrity and relationship with other rights.

It is not a matter of disqualifying the notable evolution and development of evaluation typologies, but from the point of view of international treaties, many of the objectives, goals and indicators are already contemplated, so rather, the designs (formulation) of policies must take these contributions into account and discuss them in light of the current circumstances; In short, many of the axiological frameworks of policies are already set out in international treaties. This undoubtedly opens a debate on whether they take over the agenda and determine from the international level the action of local actions, which is true, but it must also be emphasized

that it is an exercise that must be discussed and not taken orthodoxly treated but adapt them with local criteria to sub-national needs.

As in any political process, something is won and something is lost. Wide spaces for debate will have to be generated to determine which of the international treaties is feasible or not to implement with the design of local policies and which will have to be reformulated. Nor is it about getting stuck in them but about taking advantage of the horizon that they already provide.

You may or may not agree with the Treaties or with international mechanisms such as the Sustainable Development Goals (SDGs), it is not a question of addressing them orthodoxly but of thinking about them locally, adapting them and, where appropriate, exceeding them. What we are trying to emphasize is that many times energy is lost in something that is already pre-designed and it is forgotten that these regulatory frameworks only require local designs, adaptable to realities of the same dimension. Much would be gained if from the gestation of public problems, going through their agenda, formulation, implementation and evaluation, these axiological frameworks are taken seriously and participatively the pros and cons of their execution are seen, this would save resources and time, which are the great enemies of the public administration and its planning that depends on the annual budget that comes from the Treasury.

On the other hand, another big deficit of the evaluation is that it has lost sight of how comparable programs and strategies interrelate, for example, the people of the LGBT+ community who have certainly won civil and political rights, but have they made progress in their access housing, work, drinking water, etc.? The answer is half. Surely if we address these questions we would run into limitations of all kinds. What sense does it make for indigenous peoples to have greater access to free self-determination, but not to the right to work or to repair damage? Aren't human rights supposed to be progressive because they are interrelated, universal, indivisible and interdependent?

The great challenge that human rights bring to public policy is that it does not precisely see a sector or a problem in isolation, but rather puts its finger on the sore spot. We need to observe, enable, build, access policies that work in such a way that they uphold the guiding principles of human rights.

The focus on human rights in policies is just a glimpse of the needs and requirements that urgently need to be addressed in the face of current challenges. By themselves, neither public policies nor the rights approach in isolation are enough to enable better living conditions. On the contrary, if we do not interrelate these semantic fields, we will fall into the already habitual discursive risk of inserting the concept of human rights to the already insufficient and polysemic public policies, simply making a mixture of concepts that will help little in difficult moments. that we live.

Entire populations will surely be more demanding, not of goods and services that have already proven their insufficiency, but of guiding criteria that allow not only access to vital rights to populations with better income levels. It is clear that addressing sectoral problems in isolation will bring much discontent and generalized violence that is already clearly manifesting itself.

Public policies with a rights-based approach have the possibility of addressing upcoming social, economic and political problems in a particular way but with the opportunity to be associated as a human right. This is undoubtedly a methodological contribution that current times deserve.

Evaluating with a rights-based approach does not merely imply verifying whether a

certain policy has a design that is coherent in its internal functioning, or whether or not it manages to provide the proposed goods and services, nor does it observe whether there was an impact, understood as the desirable changes in the levels of wellness; Rather, taking up human rights as guiding criteria, it gives an account of how human dignity is achieved or not from government action.

Then, paragraphs later, we will see an image that reflects the real possibilities when it comes to change. Many of the demands that are experienced through social movements do not always bring with them some hypothesis of a solution, but in the face of the violation of the law, some manifestations are explosions of energy that end up dispersing. why do we say all this? Because politics has always been the science of the impossible and now, public policy is its privileged tool. What happens then when social movements, citizen demands, wars, contingencies, etc., open up government agendas, enabling a multiplicity of actors, including the government open their actions to resolve this or that issue?

There have been many times (it happens with the issue of climate change or issues with a gender perspective) that in the face of the undeniable inaction of the government it is necessary that something be done, however, the absence of hypotheses and the grandiloquence of demands, favor its inoperability. Once again we point out and insist that public policy is a set of disciplines and knowledge that allow the resolution of specific public issues. Big changes, big actions are the field of action of economic policy or international plans, which by their very nature, have the ability to insert themselves in the field they want to modify; not so the particular field of which public policy is a part.

Let's see the following image, in it there are three levels of action that we call the operational (the surface), the epistemological (the proximal depth) and the ontological (the maximum depth). What we want to point out with public policy is that its field of action is the eventual insofar as it is operational, it is how things are done, it operationalizes what is thought. In short, it is ideal; what can be changed.

In the middle of the iceberg we see the corpus of immediate depth, it is the field of the epistemological, which explains the relational and what cannot be linked, here we analyze how things are thought, it is those thoughts that make possible the action detonated by the Thought, it is the world of possibilities and it is the world of the improbable, that is, of the ideological, of what is thought possible or impossible.

In the lower and deep part of the iceberg, we can see the structural-foundational, what is established from the sense of being, that is, the ontological, it is not how things are done or how things are thought, but how one thinks reality; establishes the parameters of thought since it gives a concrete sense of being. From here the criteria of what must be changed are established, however, it is not immediately operative, nor is it impossible, but it is simply not accessible from the horizon of what is fully operative. Public policies by themselves do not allow big changes and what has to be changed.

We insist, what has to be changed belongs to the field of political economy, political science, law, economics, indeed, from philosophy, which is where the subject thinks; public policy allows the operable to be carried out, not the metaphysical, its world is that of what can be changed, not that of what must be. This is very important since policies are required to do something that they cannot provide. A tax collection public policy will not be able to solve what a redistributive policy (thought from an economic policy point of view) has not done; an environmental public policy that

seeks to guarantee a minimum access to the enjoyment and enjoyment of nature will not be able to solve what centuries of environmental depredation and state omissions have done.

Many of the demands that are heard in large demonstrations or work stoppages go precisely in the ontological sense of change, demanding that local governments change globalized policies to local governments without budgets, without decision-makers, with obvious violations of their labor rights, these are justly reproached for not acting. We need to harmonize the grandiloquent unapproachable demands by local government agents and specify them without fragmenting them so that with the government agent, not ontological but operational changes can be made.

This scheme, which can also account for the Theory of Change, offers us a semantic field to think about action. If we want to think about big ideas, about big changes, that's why we have political science, philosophy or political economy, etc.; public policy with a focus on rights calls for more limited schemes, not minimalist, but operational, this issue of domain is very problematic and also explains whether or not a policy has the potential to achieve what is expected.

Returning to the pragmatism of the evaluation, we have indicated that what is desirable in terms of evaluation with a rights approach is to enable measurements regarding the degree of compliance with international treaties and international regulations on rights, as well as the interrelationship between a right with the other.

This undoubtedly adds to the growing evaluation schemes and methodologies and that, given the citizen demand regarding the results, has been claiming not only through the delivery of goods and services, but through a tangible, observable and clear, enjoyable impact. The following graph corresponds to

a traditional impact evaluation scheme where an initial point of an intervention (program) is verified with an intermediate and/or final point, and that by contrasting with at least two homogeneous groups but that only one had intervention of the program, it is possible to realize the "real" impact, however, the great deficits of these schemes are that not all the programs are evaluable under these criteria due to deficits in the information systems, especially those that refer to the statistical part. ; On the other hand, the experimental schemes have been questioned for considering that the control and treatment groups are comparisons that go against the dignity of the subjects in question.

It is clear that we cannot set aside these schemes and it will be necessary to analyze how we will see these evaluation designs from the perspective of human rights. Undoubtedly, one of the challenges will be how to build counterfactuals that are oriented not only to a before-after in terms of time, or to their observation in a group A (which has a program) with respect to group B (which did not have intervention via the program).), but in the degree of compliance with a normative framework of human rights, or of their interrelationship and interdependence between human rights beyond the programs.

PREVIOUS CONCLUSIONS

This paper is just an approximation of the problematic relationship between the evaluation of public policies and human rights. Of course, the intention was not to detail the complexity of all the circuits of this machinery and its dynamics, but rather to show in general the potential of their relationship. In short and plain words, we were able to observe that with the rights approach, not only does democracy and public policy change, with many nuances, it implies a turn that is intended to enable better living standards through public action,
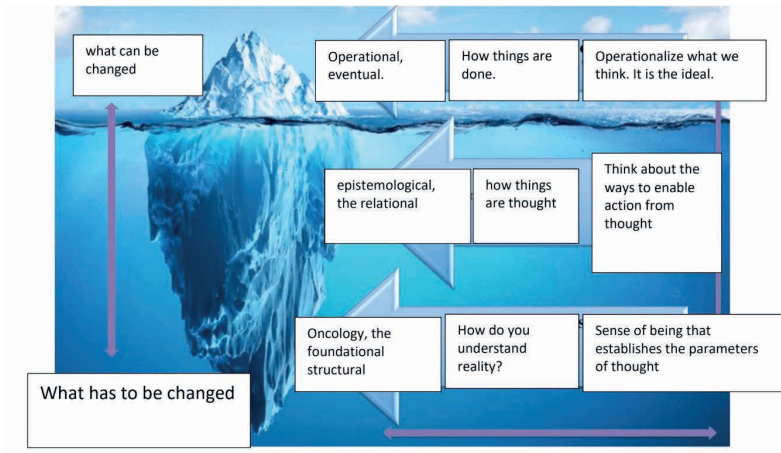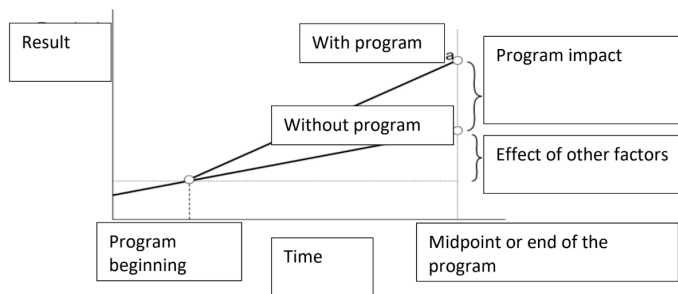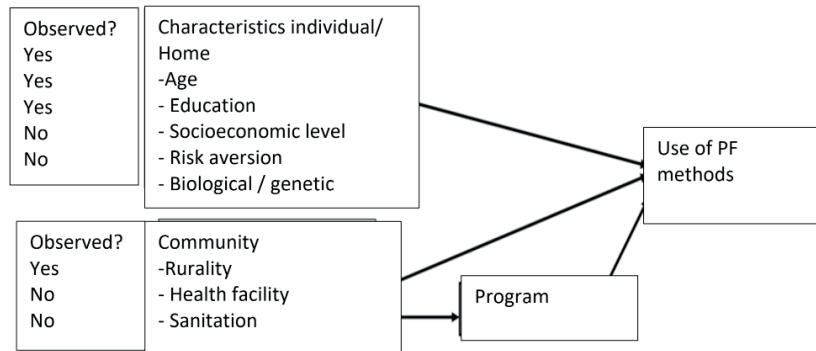
Image 1. Graduality of change.

Source: Retolaza; 2010: 6

Graph 1. The before and after an Intervention of a Program on a Problem

Fuente, elaboración propia con base en Alaracón 2015

$$Uso_{ij}=\alpha_0+\alpha_1 Edad_{ij}+\alpha_2 Edu_{ij}+\alpha_3 NSE_{ij}+\alpha_4 Rur_j+\alpha_5 Prog_j+\alpha_6 Ries_{ij}+\alpha_7 Gen_{ij}+\alpha_8 ES_j+\alpha_9 San_j$$

$$Prog_j = \beta_0 + \beta_1 Rur_j + \beta_2 ES_j + \beta_3 San_j$$

Scheme 1. Experimental methods

Source, own elaboration based on Alaracón 2015

but also greater limits. to the exercise of power.

Thinking about public policies with a rights-based approach is far from piling up objectives and goals (piling on) or from the discursive claim to give opportunities to disadvantaged groups (tokenism) with actions and axioms that de facto generate greater inequalities. It is about carrying out the factual and real level, both the vision of the State and of democracy, to satisfy the needs and demands of society.

The focus on rights in policies changes all phases of politics; public problems are not the lack of goods and services, but the denial of the full enjoyment of a human right; the formulation of policies does not refer tangentially to orthodox compliance with indicators, but prioritises the progressiveness and universality of rights; in the implementation, citizen participation is a tangible possibility where the affected populations mediate the power of other actors with interests that are not necessarily public and finally; The evaluation with a rights approach, verifies that the implemented actions account for international treaties and international regulations to which Mexico is a party, thus, the evaluation accounts not for its internal associativity, but for the scope and interrelationship of the rights, not only those that are recognized in our constitution and other internal laws, but also those that are in international treaties.

Thus, when talking about international standards as support for public policies of and with a focus on human rights, we refer to the need to resort to treaties, declarations that generate obligations to international custom, all sources of international law of human rights that include general observations, judgments, rapporteurs' documents, programs, and action plans, from human rights conferences, and other documents that allow establishing the content and extremes of international human rights obligations.

We were able to realize how the concepts of Human Rights and Evaluation of Public Policies are closely related and are consubstantial in modern theory. All these categories pivot and define the tension between access to power with human dignity. In simpler words, since Kant, dignity has been part of the state framework that enables and accounts for democracy. For their part, public policies, from their founding moment, were considered possible only if they had human dignity as their telos. Faced with this, human rights have positioned themselves as the guiding framework that gives meaning to a concept of the nation-state that has been exhausted in the face of globalization and that repositions it as a guarantor of human dignity. For this, it will be necessary to formulate and design public policies that, as political tools, allow to harmonize these concepts that today more than ever require a guarantee functionality.

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