

Guatemala: Striving to Implement the Peace Agreements¹

Context

1. In Guatemala, the 36-year armed conflict directly impacted the Government's recognition of human rights and its response to specific social needs. The Peace Accords of 1991-1996, drafted with support from the international community, acknowledged that the state was responsible for addressing poverty and for fostering the participation of civil society in policymaking. The Peace Agreements marked the start of a human rights-based approach to social policy design, with particular attention to the needs of women, indigenous people, children, youth, the elderly, and people with disabilities.

2. Since 1996, slow progress has been made toward the fulfillment of these agreements. Economic and social rights, including the obligation of the state to protect and fulfill them, were included in the new Constitution, and during the 1990s were integrated extensively in the country's legislation. The Agreement on Socio-Economic Aspects and the Agrarian Situation (1996) declared the obligation of the state to "provide effective enjoyment, without any discrimination, of the rights to work, to health, to education, to housing, and to the rest of social rights [defined in the Constitution]." These commitments were reiterated in the Law on Social Development (2001) and, operationally, in the Population and Social Development Policy (2002), which is the only policy in the country for which monitoring and annual reporting is required, in the form of reports to Congress by the Presidential Secretariat for Planning and Programming (SEGEPLAN).

3. The progressive influence of these legal and institutional reforms on social policy has become most evident in the area of civic participation. Channels of participation were formally created in 2002 through the Law on Urban and Rural Development Councils, the Law on Decentralization, and the Municipal Code. To assist local government and community engagement in policymaking, Guatemala has also promoted transparent public financial management and procurement, and extended a real-time internet based system to nearly all central government agencies and more than a third of municipalities (World Bank 2007, p. i). While significant progress has been made in improving budget transparency and ensuring the capacity for informed participation by local actors, major challenges remain to the effective fulfillment of social rights.

4. First, social programs in Guatemala tend to be temporary and targeted to specific groups or issues rather than universal and long term. The Government's strategy for fostering socio-

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economic development and social cohesion for 2004-2008, *Vamos Guatemala*, reflects the targeted nature of social policy (Gomez 2007). The social component of this strategy, *Guate Solidaria*, has four main objectives: (a) reduce malnutrition, specifically chronic child malnutrition in the municipalities at highest risk; (b) formulate programs to fight extreme poverty; (c) assist out-of-school youth who have not found formal employment; and (d) ensure that the cultural and ethnic diversity of Guatemala’s population is reflected in social policy. Under this strategy, the social programs that best capture rights-based principles – e.g., raise awareness of citizens’ entitlements, and provide opportunities for participation and redress – cover only selected groups and are not reflective of a larger commitment to achieving equity in the access to basic services. Such programs, including the National Program for Self-Managed Education (PRONADE), and the Program on Reproductive Health, will be discussed below.

5. Second, despite the Government’s obligation under the Peace Accords to restructure the national budget in accordance with socio-economic priorities, total public spending is relatively low in Guatemala – 10.5 percent of GDP (due in part to the Government’s limited fiscal space; it has the lowest tax base in Central America, at only 9.5 percent of GDP, according to Fukuda-Parr 2007). Further, spending in the major public sectors is not yet progressive with 21 percent of education spending going to children of the poorest quintile of the population, and 11 percent — to the richest quintile (Fukuda-Parr 2007, p.31). Social safety assistance is also regressive in absolute terms, with the richest quintiles receiving a larger percentage of total transfers (Fazio 2002, p.49).

6. In sum, the reforms in the normative social framework in Guatemala over the past decade have not been translated into universal social guarantee programs, although they have contributed to wide awareness of social rights and entitlements. Limited budgets and the fragmented nature of social programming are two major challenges to the fulfillment of social and economic rights in the Guatemalan context. The discussion of social guarantees is not of immediate relevance to increasing the social policy budget, given that adequate funding for social programs is contingent on economic growth, a stronger tax base, and an inter and intra-sectoral redistribution of resources toward public programs. The structure of social programs, on the other hand, can be analyzed and revisited from a social guarantee perspective, in order to suggest a more coherent and universal design of social service delivery that communicates better economic and social entitlements to all citizens, maintains a focus on equity, and gives citizens the opportunity to claim their entitlements.

7. Table 3 illustrates social guarantees in the education and health sectors; and the following analysis brings in examples from the education, health, and food and nutrition sectors to illustrate breaches in access, quality, financial protection, and redress/enforcement guarantees in social programs that could be remedied if programs were redesigned with a rights-based focus.

| Table 3. Assessing Social Guarantees in Education and Health in Guatemala | | |
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| Sub-Guarantees | Education | Health |
| | Access | |

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| <i>Are the beneficiaries and services clearly defined?</i> | Yes, for all programs for children 0-16: initial education (2 yrs); pre-primary (3 yrs.); primary (6 yrs.); middle/secondary (3 yrs.). The beneficiaries are also defined for the scholarship, literacy, and special education programs. | Health services through the Ministry of Health are provided for all, though by law priority is given to women, children, youth, seniors, and patients with HIV/AIDS and chronic diseases. Priority is also given to affiliates of the Guatemalan Social Security Institute and their spouses and dependent children. |
| <i>Are there institutional procedures for monitoring access?</i> | Yes, through enrollment statistics of September 30 th and March 30 th of each academic year. Access is still limited, particularly in pre-primary (45.2 percent enrolled) and in secondary grades (31.3 percent enrolled); enrollment in the primary grades is 92.41 percent. | No information on regular monitoring mechanisms. Access is low, close to none in rural areas, especially in the north and west, mostly inhabited by indigenous groups. Vaccination programs and programs for control of vector-borne diseases have the widest coverage. |
| <i>Are there legal or institutional mechanisms that ensure non-discrimination in the access to services?</i> | Bi-lingual schools to provide primary education to indigenous children are administered by the Ministry of Education. There are no specified mechanisms to ensure that this education is obligatory, or to ensure universal coverage. | Medical services cannot be denied. In case of non-compliance, citizens can file claims with the Guatemalan Institute for Social Security (IGSS). |
| <i>Are services guaranteed for the amount of time needed?</i> | No mechanism guarantees continuous provision. Many students stop attending after the primary grades. | Not specified. |
| <i>Is there a maximum waiting period for receiving the service?</i> | Not specified. | Immediate emergency attention is guaranteed, yet in reality depends on the capacity of the health center. The IGSS guarantees attention in 2-6 months for general illnesses. |
| <i>If service is unavailable within this waiting period, what is a guaranteed alternative (in the same time period)?</i> | Not specified. | Private providers are contracted if the IGSS cannot provide care in the specified period or in cases where surgery is urgently needed. |
| Financial Protection | | |
| <i>Do beneficiaries need to contribute to the cost of service?</i> | There are implicit costs in transportation/ clothes/books that may prevent children from rural areas or low-income families to attend. | Formally, health care and specialized medications are free or at very low cost. In reality, 73 percent of spending for medications is personal spending. |
| <i>Are services accessible to those who cannot contribute to the cost?</i> | Access is limited due to implicit costs (e.g., transport), lack of school infrastructure at some locations, scarce state funds. | Access is limited due to implicit costs (e.g., transport), lack of school infrastructure at some locations, scarce state funds. |

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| <i>Is this information effectively communicated to the public?</i> | There is no regular information system on the right to education and on the services it entails for citizens. | There is no regular information system on the right to health and on the services it entails for citizens. |
| Quality | | |
| <i>Are there clear quality standards?</i> | Yes, based on international quality standards (in reading, writing, mathematics) in the pre-primary and primary grades, and in mathematics in the secondary grades. | Yes, based on international standards and “protocols of attention.” |
| <i>Are programs being evaluated on a regular basis?</i> | Yes, term and annual tests are conducted in the primary and secondary grades. Teachers’ evaluations are not conducted regularly. The program for self-managed education, PRONADE, has been evaluated. | No information. |
| <i>Are standards and evaluation results clearly communicated to the public?</i> | No information. | No information. |

| Mechanisms of Redress and Enforcement | | |
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| <i>Are there mechanisms allowing citizens to claim adequate provision of the services guaranteed?</i> | <ul style="list-style-type: none"> - Prosecutor for Human Rights. No information on cases regarding education. - Services can also be claimed through the Ministry of Education. - Judicially, based on the Protection Law (<i>Ley de Amparo</i>) | <p>Prosecutor for Human Rights. No information on specific cases.</p> <p>Judicially, based on the Protection Law (<i>Ley de Amparo</i>)</p> |
| Participation and Continual Revision | | |
| <i>Do civil, parent, or other community organizations have a concrete role in the design, implementation, and monitoring of the program?</i> | The program for self-managed education (PRONADE) allows participation of parents and community members in decision-making regarding teachers' contracts and other education expenses. Parents, teachers and students are obliged to participate. | <p>The Constitution obliges the community to participate in the design, implementation and evaluation of health programs.</p> <p>The Program for Reproductive Health is created with a "participatory character" – not specified concretely.</p> |
| <i>Which law or institution guarantees citizens' involvement?</i> | Not specified. | The Municipal Code promoted participation through Municipal Councils, represented in the Commissions of Health and in the Development Councils in the Ministry of Education. |
| <i>Are there mechanisms that allow for continual improvement of services?</i> | There are no formal standard review procedures. | Restructuring and modernization of medical services, as well as administrative reforms, are undertaken but there is no institutional mechanism that guarantees continual revision. |

Education

8. The Guatemalan state formally guarantees eight years of minimum education. In practice, however, the large inequities in access that exist among regions and ethnic groups are addressed by a variety of targeted programs, most of which have been introduced and financed by international donors (Box 5). Programs on bilingual education, community-managed schools, scholarships, as well as innovative learning and evaluation projects, have had a notable impact on increasing the access, quality, and civic engagement in education for vulnerable groups (namely women and indigenous). However, in their totality they do not represent a coherent mechanism to guarantee the entitlement to eight-year education of adequate quality to all Guatemalans.

9. The normative framework on education in Guatemala is guided by human rights principles, as well as by the discourse on increasing the country's economic competitiveness by developing a qualified work force for the economy. The Guatemalan Constitution (1993) declares literacy a national priority and states that in areas with predominantly indigenous

population priority should be given to bilingual teaching methods.² The education strategy, *Visión Educación*, has two distinct policy aims: (i) to improve the quality, efficiency, and coverage of primary and secondary education; and (ii) to increase the participation of various social groups in decisionmaking for and monitoring of education programs. The Accords on the Resettlement of Displaced Persons and on the Rights and Identity of Indigenous People committed the state to implement decentralization in education in order to respond to various cultural needs and to increase civil participation. One expression of this commitment has been the evolution of the National Program for Self-Managed Education (PRONADE) since 1992 (World Bank 2005b).

Box 5. Innovation in Education through Donor and State-funded Programs

True to the principles of *subsidiariedad* (subsidiarity) and *gradualidad* (progressive achievement), which are at the heart of *Visión Educación*, progress in education in Guatemala has been achieved through a variety of targeted programs: the Program of Multi-grade Schools, combining more than one grade in a single classroom, which has been successful in rural areas with indigenous populations (Fazio 2002, p. 54); the programs APRENDO and Saving the First Grade, seeking innovative ways to raise the quality of learning; and the National Program of Self-Managed Education (PRONADE), functioning with active community participation, among others. These targeted programs have brought flexibility to the education system, and helped it to adapt its services to various cultural and geographic environments. The USAID programs on bilingual education and on measuring educational results (MEDIR) are a crucial component for increasing equity in access and quality for indigenous children.

However, funding for many education programs has often been temporary. Such was the case with BECATON, the scholarship program for children of low-income families, launched in 2005, as well as with the 2006 REDODEO DE CAMBIO campaign for installing computers in secondary schools. Even longer-term programs, for which government funding is formally guaranteed, have found themselves dependent on international donors. Examples include the program for school tools (*útiles escolares*), financed by the European Union in 2005, with a small contribution by the Ministry of Education; Saving the First Grade, established with USAID funding; and PRONADE, which was founded and is still strongly reliant on funds from the German Financial Cooperation/KfW (*Kreditanstalt für Wiederaufbau*). Another set of programs has never been budgeted; these include the program for curriculum reform, learning evaluation programs in mathematics and language skills, sports schools, scholarships for academic excellence, program for adults for out-of-school education, municipal centers for capacity building, family education centers for development, and the Mobile Youth Program.

10. The education reforms have partly been impeded by language inconsistencies between the new and old legislation, which has created problems in the way norms and obligations are transferred from the legal to the institutional and instrumental domains. The current Law on Education, for example, is applied through a set of institutional rules corresponding to the old legislation. This set of rules refers to legal norms that are not yet valid and to institutional entities that no longer exist, resulting in a process of “overruling” inconsistencies through new administrative resolutions that affect the efficiency and quality of education, and increase confusion among providers (Gomez 2007).

11. An analysis of some of the most essential sub-dimensions of the right to education – access, quality, financial protection, participation, and continual revision — highlights the areas

² “Artículo 74: ...En las escuelas establecidas en zonas de predominante población indígena, la enseñanza deberá impartirse preferentemente en forma bilingüe.”

in which the reforms in Guatemala have advanced, and the aspects in which the sector still lacks the mechanisms necessary to deliver education from a rights perspective (i.e., universally and without discrimination, giving citizens the opportunity to claim their right to education, raising awareness of and complying with established standards of learning).

12. **Access** to education, including basic primary education, is limited. The Net Schooling Rate (*Tasa Neta de Escolaridad*) was estimated from enrollment records at 90 percent in 2005, with coverage of primary education at 93 percent; yet the rate of completion of primary school was only 65.1 percent. The rates of completion fall even more for pre-secondary and secondary school. Only six out of ten children who enroll in the first grade of pre-secondary school (*promedio*) complete the year; for girls the figure is five out of ten. Literacy in 2005 was 82.2 percent, though further research is necessary to determine whether this is predominantly due to lack of access or to low educational quality.³

13. The closest approximation of a rights-based approach to providing education is the PRONADE program, introduced in rural indigenous areas, which is strongly participatory and gives communities the freedom to select the language of learning, modify the curriculum, and monitor results. According to a KfW evaluation, PRONADE resulted in a steady growth in enrollment and, to a lower degree, in a drop in grade repetition and drop-out rates, compared to other schools in the country (Di Gropello 2006; KfW 2004).

14. **Quality** of learning appears to be lower in self-managed schools, however, and has not risen by much even when education takes place in a group's native language (Di Gropello 2006). The PRONADE program, acclaimed as a best practice in terms of enrollment, participation, and cultural sensitivity, has a lower quality of learning compared to regular schools because of the limited technical and financial capacity of the responsible communities to monitor quality in the prescribed manner. Further, parents and community leaders lack information on educational standards and methods of evaluation. In addition, many qualified teachers have preferred to work in regular schools, because community involvement in the hiring process is perceived as an infringement on their power.

15. Some innovative methods for measuring quality have been introduced by the USAID project, Saving the First Grade, which trains teachers to track students' progress using standardized tests and assessments, which are recorded on progress charts and shared with parents (USAID 2007).

16. **Continual revision** of educational services has occurred through innovative projects within these programs, even in the absence of legal or administrative mechanisms in place to guarantee updates in the curriculum or teaching methods. For example, Saving the First Grade program has introduced local materials such as corn kernels and "magic worms" made of flexible wire to form letters and incite an interest in learning. It has also a system of inviting parents and community members to share cultural traditions and knowledge, as well as teach children how they can apply the material learned in school to their life at home (USAID 2007). In addition, the Government's APRENDO program has introduced education in citizenship values, as well as

³ The estimated literacy rate in 2003 was 70.6 percent (female: 63.3 percent/male: 78 percent) (USAID Guatemala 2004). See also <http://www.dsgonline.com/Documents/CountryProfiles/English/GuatemalaEdProf.pdf>.

innovative learning methods (enhancing students' capacity to absorb new knowledge). At the same time, however, the National Program on Curriculum Reform has been given no budget and is practically inactive.

17. **Civic participation** in education, as promoted by the Peace Accords and *Visión Educación*, has increased notably, particularly within PRONADE, which operates through community-based Committees on Education (COEDUCAs). These committees provide for the organized participation of parents, community leaders, and local government authorities in all decisions relevant to their assigned schools – hiring of teachers, maintenance, curriculum development, etc. The program has mobilized significantly parents, educators, and community leaders to engage in decision-making and monitoring of education in the pre-primary and primary grades.

Health

18. The Guatemalan Constitution declares that health is a fundamental human right and that the state is responsible for ensuring access to health services for all citizens without discrimination. The community has the right and responsibility to participate in the planning, implementation, and evaluation of health projects. As in the education sector, multiple laws and Congressional decrees have been issued regarding health care; yet, the lack of clearly defined institutional responsibilities that derive from this normative framework makes it difficult to claim the existence of clear guarantees in health.

19. As in the education sector, the Government's efforts in health care have emphasized civic participation, yet have devoted less attention to establishing nationwide quality standards and evaluations, guaranteeing universal access to an established set of services (entitlements), and strengthening mechanisms for claiming access to those services.

20. The Program on Reproductive Health is an example of a program that reflects some elements of a rights-based perspective within the health sector as it incorporates strongly civil society participation and raises public awareness on health issues. This program has both legal⁴ and administrative⁵ grounding, which ensures its sustainability across changes in government. Its services include information and education regarding family planning, prenatal care, and the prevention of cervical and breast cancer. It also provides medical services in these areas in coordination with the Guatemalan Institute for Social Security.

21. **Access** to the program is limited, due mainly to lack of sufficient funding (it is financed partly by the Ministry of Health and Social Assistance and partly by international donors). There is a large gap in access to medical services – 65.6 percent in urban areas as opposed to 29.5 percent in rural areas; as well in access to medical attention during birth – 57 percent among *mestizo* women and 19.5 percent among indigenous. Access to family planning options shows

⁴ Law on Social Development (Art. 26); Law on the Dignity and Integral Promotion of Women; Law on Universal and Equitable Access to Family Planning Services and Their Integration in the National Program on Sexual and Reproductive Health (Gomez 2007, p. 50).

⁵ Social Development and Population Policy; National Policy for Promotion and Capacity-building of Guatemalan Women; Equity Plan, 2001-2006 – Component on Health. (Gomez 2007, p. 50).

similar discrepancies: 56.7 percent urban versus 34.7 of rural population. The use of contraceptives among indigenous women is 23.8 percent. There is unmet demand for family planning services among 39.3 percent of indigenous women, 32.3 percent of rural women, and 20.2 percent of urban women.⁶

22. In terms of **quality**, the program defines clear norms, sanctions, and enforcement system in cases of bad medical practice. Yet, limited access and financial protection prevent women from utilizing these mechanisms.

23. The success of the program has been mainly in prevention and in raising awareness on reproductive health issues through civil society involvement. Even though the preventive aspect is important, the most frequent causes of maternal mortality in the country have had to do with lack of infrastructure or qualified personnel: 53 percent of maternal deaths occur as a result of hemorrhage, 14.4 percent are caused by infections, 12.1 percent are from hypertension during pregnancy, and 9.5 percent are from abortions (Gomez 2007, p. 51). There is no current information on the program's achievements regarding actual access to services or reduction in maternal mortality.

24. Finally, the Program of Reproductive Health was designed with a **participatory character** – civil society groups play a key role in identifying the issues to be tackled by the program. Women's groups have been instrumental in exerting political pressure for the program to be protected by law and policy so that it is not dependent on the current administration.

Conclusion and Lessons

25. In conclusion, temporary and targeted social programs prevail in Guatemala, making it difficult to discuss social policy results from a rights-based perspective, which would involve an analysis of universal access to entitlements. Following the Peace Accords of 1996, a large part of Guatemala's legal framework was revised to include explicit commitments to the protection and fulfillment of human rights – civil, political, economic, social, and cultural. As a result, the country has developed a comprehensive legal framework with an abundance of references to the rights and obligations of both the state and citizens. Yet, the translation of this legal framework into functioning policies and programs is far from explicit. Few of the laws detail the institutional responsibilities and procedures for each stage of social program development – design, implementation, monitoring, redress, and enforcement.

26. A rights perspective, applied specifically through the social guarantees framework, points to two major areas where the institutional arrangements for social policy delivery in Guatemala could be strengthened. One would be the explicit design of mechanisms of redress to enable citizens to make claims for service provision. The design would need to be sensitive to the major social schism in the country and the high level of social exclusion of the indigenous population, and particularly indigenous women. Communication and mediation into local languages would be a critical component, and communication channels would require a careful, socially literate

⁶ Pan-American Health Organization, *Salud Integral de la Mujer, Salud Sexual y Reproductiva con Énfasis en la Reducción de la Mortalidad Materna* <http://www.ops.org.gt/SFC/Sim/SIM.htm> (website accessed on June 20, 2007).

design. The other would be the more clear definition of institutional responsibilities for the delivery of health and education services.