

Analysis of a Rights-Based Approach to Social Policies in Paraguay¹

Context

1. With the return to democracy in 1989, after almost 40 years of military dictatorship, the citizens of Paraguay recovered hopes for better living conditions and a progressive realization of their rights to quality health, education, and housing. Accompanying these hopes, the return to democracy has witnessed a considerable increase in social spending in detriment of defense and national security. This trend has lasted until today, with social spending rising from 39 percent of total spending in 2002 to 41 percent in 2006. However, this increase in spending has seldom materialized in improved quality and better access to services. Following the country's traditional spending pattern, the majority of budgetary resources have been devoted to pay for personnel related expenses e.g., improvements of the wage level and new hires. In any case, these increases have not been enough to situate Paraguay at the same level of its neighbors which have traditionally maintained very high rates of social spending.
2. From the onset, the current government has put special attention to ensuring increased and more efficient social spending. In September 2005, it created the Fund for Social Equity (*Fondo de Equidad Social*) that intended to provide opportunities to public policy programs and projects to compete for budgetary allocations that would guarantee their uninterrupted funding. Yet, two years after its creation, none of the steps required to make this Law effective have been taken. Unfortunately, this situation adds confusion to a Social Protection System that is far from fully realizing the right to adequate social services that Paraguayan citizens have been guaranteed by the National Constitution and a plethora of other legal and administrative instruments.
3. The matrix below captures key elements of existing social guarantees and pre-guarantees in Paraguay, concerning health and education. Utilizing the five sub-guarantees discussed above, the subsequent analysis explores how rights based norms and procedures have, or have not, been integrated into the delivery of social services in each of these areas in order to understand the degree to which the country is effectively meeting its population's social needs.

Sub-Guarantees	Health	Education
Access		
<i>Are the beneficiaries and services clearly defined?</i>	Yes, for the majority of the health programs beneficiaries and services are clearly specified.	Yes, services and beneficiaries are clearly established in the National Constitution and in the Education Law.
<i>Are there institutional procedures for monitoring access?</i>	No. Indirectly, some information regarding access to health services is obtained through the Household Survey.	No. Although formally some divisions of the Ministry of Education have a potential mandate to monitoring access, lack of capacity and resources preclude this function.

¹ Adapted by Lisandro Martín from the original report: Palau, Francisco; González, Sirley; Otter, Thomas; Gaete, Rubén; Lachi, Marcello. 2007. *Análisis con enfoque de derecho a las políticas sociales en el Paraguay: sectores de salud y educación*, (unpublished). The original report was commissioned by the World Bank's Social Development Department as part of a wider research project on Rights, Guarantees and Social Policy. Summaries of all case studies and related documents from this project are available at <http://go.worldbank.org/P2LXPQU1Z0>

<i>Are there legal or institutional mechanisms that ensure nondiscrimination in the access to services?</i>	No, not legally. However, practice shows that in the public health centers there is no discrimination for those who need services (by race, gender, level of education, political views, religion, etc)	Yes, special programs have been developed for indigenous population, disabled students, adults and other vulnerable groups. Discrimination is mostly indirect and occurs due to lack of resources on the part of excluded groups.
<i>Are services guaranteed for the amount of time needed?</i>	Yes, but not for every service.	Yes, mandatory elementary education is guaranteed for the entire academic year. Teachers' and principals' salaries are included in the lines of National Budget that do not depend on governmental decisions to be executed (once they are approved).
<i>Is there a maximum waiting period for receiving the service?</i>	No	No
<i>If service is unavailable within this waiting period, what is a guaranteed alternative (in the same time period)?</i>	-	-
Financial Protection		
<i>Do beneficiaries need to contribute to the cost of service?</i>	Yes, for several services a user fee is established by a ministerial resolution.	Yes, although the National Constitution and the Education Law determine that basic education is free of charge. The required contributions can be direct (tuition fees) or indirect (organizing events, drawings, etc. and providing services to the institution such as cleaning, maintenance, etc.).
<i>Are services accessible to those who cannot contribute to the cost?</i>	Yes, fee exemption procedures for poor population exist.	Yes, by Constitution. In practice, however, beneficiaries have had to recur to the Judiciary or the Press to make use of their right to free-of-charge education when they could not afford the payments.
<i>Is this information effectively communicated to the public?</i>	No, it is not widely disseminated.	No.
Quality		
<i>Are there clear quality</i>	No, there are not for the majority	Yes, graduation standards for each

<i>standards?</i>	of services. There are norms, guides and protocols but no evidence of their use.	educational cycle (primary, secondary, etc.) are clearly defined.
<i>Are programs being evaluated on a regular basis?</i>	No, health programs are not evaluated on a regular basis. However, the Ministry of Health monitors whether specific goals of the programs are met as part of its regular management controls.	Yes, the Ministry of Education through the <i>Sistema Nacional de Evaluación del Proceso Educativo</i> (SNEPE) has the mandate to generate permanent and reliable information on the students' achievement levels when they finalize each academic cycle.
<i>Are standards and evaluation results clearly communicated to the public?</i>	No	Yes, the evaluation results are disseminated through a wide range of institutions and the media.
Redress and Enforcement		
<i>Are there mechanisms allowing citizens to claim adequate provision of the services guaranteed?</i>	No. Indirectly, the Ombudsman is an institutional mechanism for this. In case of private providers, beneficiaries can make claims to the Office of the Superintendent of Health (<i>Superintendencia de Salud</i>).	There is no mechanism for beneficiaries to make direct claims within the educational system. Outside the system, the judiciary has been used to claim adequate services.
Participation and Continuous Revision		
<i>Are there civil/parent/community organizations and do they have a concrete role in the design, implementation, or monitoring of the program?</i>	Yes, there are Health Councils at the local, regional and national level. Their effectiveness is uneven; generally, they are more developed at the local level.	Yes, although not legally mandated. Parents associations play a significant role at the school level. Several NGOs provide complementary services.
<i>Which law or institution guarantees citizens' involvement?</i>	Law No. 1.032/96 that institutes the National Health System. Law 1.032/96 deepens the decentralization of health services and empowers the Health Councils.	-
<i>Are there mechanisms that allow for the continuous revision of service standards?</i>	No	Yes, several mechanisms are established by the Ministry of Education. However, they seldom function due to lack of resources and institutional capacity.

Health

4. In Paraguay, the right to health is at a pre-guarantee level. Long lasting challenges of economic development, demographic problems, and deep rooted divisions between urban and rural populations have hampered the ability of the State to create an effective system that realizes the right to adequate health for all citizens, including prevention, treatment, rehabilitation and promotion. At present, this situation is reinforced by the budgetary difficulties that the Paraguayan state faces in its effort to supply more and better health services, especially giving the rising demand for free-of-charge health services by an increasingly impoverished population.

5. Paraguay has a well-developed legal framework that proclaims the responsibility of the State to ensure adequate health for all citizens within its territory. The National Constitution, the Sanitary Code and the National Health System Law create and regulate a National Health System with the mandate to develop a national public policy that realizes the right to health for all citizens, rendering services to all persons in an equitable, opportune and efficient way, without any form of discrimination. Altogether, this framework is exemplary within the Southern Cone in its comprehensive understanding of the right to adequate health. However, the actual practice is still far from fully honoring these legal commitments. Notwithstanding that the public spending in health has increased from 0.3 percent of GDP in 1990 to 3.4 percent of GDP in 2004, the level of spending per citizen still appears insufficient to guarantee the universal right to health. While Paraguay allocates \$19 per citizen to health services, the rest of Latin American countries allocate an average of 140 dollars per inhabitant.

6. The National Health System Law, approved in 1991, opened a process of decentralization of basic health services, as part of a wider effort towards democratization, strengthening of local governance, and engaging civil society in policy making. With regards to **civil society participation**, this law creates health councils at different administrative levels - national, regional and local. At the municipality level, the local council is where civil society, the local government and representatives of the national government meet to determine health priorities and advance germane reforms at the local level. As a result, the implementation of recent health reforms has followed a pattern of relatively demand-driven changes, as opposed to a purely top-down approach designed and executed by the national government.

7. Institutionally, this law has been translated into a complex system of public, private and mixed health providers, the biggest of which is the Ministry of Health. The Ministry designs, executes and supervises the country's sanitary policy, and is responsible for providing public services to all people who are not formally covered by other institutions, which generally includes the poorest and most vulnerable groups. Despite all its efforts, the Ministry has not proven effective enough to guarantee an efficient coordination of all service providers, and therefore important misconnections and inequality of access have occurred in the country's health system. These malfunctions are reflected most prominently in the disparity between health services in the capital and the rest of the country. Whereas Asunción counts with 15.3 doctors per 10 thousand inhabitants, the rest of the country has an average of 2.5 doctors. Moreover, these disparities persist at every level of comparison.

8. Over the last decade, the share of public health allocations with regard to the government's overall budget has more than doubled, from 2.8 percent in 1990 to 6.3 percent in 2004. Unfortunately, this increase has not been enough to ensure universal **access** to health services, leaving more than 30 percent of the population excluded from these services in 2007. Although health coverage has steadily increased over the years, these improvements have proved meager to overcome appalling sanitary conditions, increasing poverty and inequality. Among those who suffer the most from lack of access, indigenous and rural populations stand out. According to the

2004 Household Survey, the rural residents suffer disproportionately from insufficient coverage: 58 percent of them (as opposed to 39 percent of urban residents) do not have access to any type of institutional health services.

9. Private spending represents the greater proportion of the country's overall spending in health, with the families facing 63 percent of the total expenses, as opposed to 37 percent afforded by the public sector. Traditionally, the public health budget had been nourished by two sources: i) resources allocated by the Treasury, originating from tax payments, and ii) external credits or loans, coming in the form of foreign aid from international organizations and donors. Since 1991, user fees have been included as a third source of funding. Thus, families devote 4 percent of their total earning to pay for health services. According to several authoritative sources, the share of families' spending in health in relation to their income has steadily increased over the last fifteen years. This reveals the fact that the sub-guarantee of **financial protection** of the right of access to health services has been progressively deteriorating. Moreover, the fact that the possibility of affording those services is concomitantly associated to the families' level of income reveals that inequalities between the have and have-nots with regard to access to health services are widening over time.

10. Precisely to minimize inequalities within the working population, the Social Insurance Institute (*Instituto de Previsión Social*) has developed a comprehensive system that offers health services, medicines, pensions, sickness compensations, maternity and labor insurance. The Institute provides a complete coverage, sustained by a model of co-financing between the employee (9 percent of the wage or less) the employer (14 percent) and the State (1.5 percent). Although the model has the potential to help meeting the needs of vulnerable sectors of the population, the State has never been in a position to materialize its pledged contribution, diminishing the overall impact of the system. On the other hand, in order to reach a similar level of coverage from the private sector, a payment equivalent to 20 – 50 percent of the minimum wage is often required, depending on each person's payment capacity. As a result, 80 percent of the population does not have any type of insurance.

11. Efforts to improve the **quality** of service delivery have proliferated through norms, guides, and protocols that cover a wide range of services and programs. Nevertheless, a variety of health indicators show that significant deficiencies still rest unaddressed. Illustratively, 81 percent of the country's maternal deaths are due to obstetrical causes, that suitably treated would not have resulted in death in more than 1 percent of the cases. Despite some isolated endeavors, it has not been possible to develop and enforce professional accreditation programs, appropriate registration procedures of health establishments, widely accepted treatment protocols, regular audits to health professionals and clinics, and periodic controls of existing technologies. Although no institutional mechanisms to address users' satisfaction with services exist, several studies suggest high levels of dissatisfaction, problems of inadequate treatment, excessive delays, and disconformities with the health personnel's level of skills. These complaints seldom translate into corrective measures due to the absence of effective **mechanisms of revision and redress** that can help both the demand and supply of services to realize the sub-guarantee of quality in health services.

Education

12. As with regards to health, Paraguay has a well articulated set of legal instruments that guarantee the right to education for all citizens. The National Constitution and the Education Law are the spines of a legal framework that establishes clear goals, strategies, and long and medium term plans for the educational sector. Besides, the protection of the right to education is framed within international legal instruments such as the International Covenant on Economic, Social

and Cultural Rights and the Declaration of the Rights of the Child, and therefore acquires a comprehensive scope. Following all these commitments, the National Constitution of Paraguay declares that every person has a right to a comprehensive and permanent education. In practice, however, inequality of access is among the biggest challenges of the current educational system.

13. The Educational Reform began in Paraguay in 1994. The objectives were both comprehensive and ambitious: i) to increase the years of mandatory schooling from 6 (1st and 2nd cycles) to 10 (with inclusion of pre-primary and 3rd cycle); ii) to expand coverage of basic education which before the reform reached only 81 percent of the young people in school age; iii) to address difficulties caused by the constant migration of impoverished families from rural to urban areas which annually reached 1 percent of the population; iv) to improve the quality of teachers, 35 percent of whom did not have a formal teaching degree; v) to reduce grade repetition and drop-out rates (8 and 9 percent respectively in 1995); and v) to increase the number of students who were able to finish the cycles of mandatory schooling. With all these good intentions, however, the impact of the Educational Reform has been severely affected by the constant increase in poverty since its approval, which reached a peak of 41.4 percent of the population in 2003.²

14. To face the hardships of this reality, Paraguay developed the Program of Preferential Attention to High Risk Schools. As an input to this program, the Ministry of Education created the Educational Map, a digital-cartographic database to identify “schools at high risk”. This category included schools that i) are usually located in the periphery of the country; ii) deliver low quality education, lack efficiency, effectiveness and adequate institutional capacity; iii) do not have autonomy to adapt the curricula and other services to face local needs and therefore miss important aspects of the actual educational demand; iv) serve children whose living conditions are constantly deteriorating and whose basic needs are increasingly unmet; and v) are vulnerable to a plethora of administrative and economic challenges that put their existence constantly at risk. These schools constitute the most forceful example of the obstacles that the Educational Reform will have to overcome in order to guarantee basic education for all Paraguayans.

15. Despite all its difficulties, the **access** to education has steadily increased since the beginning of the Educational Reform, reaching a coverage rate of 93 percent in 2005, rising from a down-point of 82 percent in 1992. To its credit, to achieve this significant progress was one of the main goals of the Educational Reform. Significantly, school enrollment has increased more than 23 percent since 1993 for the 6 first academic years of basic education. Notwithstanding this progress, there is still much room for improvement: the coverage in 1st and 2nd cycles did not surpass 93 percent in 2005, and access to 3rd cycle, which was declared mandatory in 1998, did not surpass 76 percent that year. Moreover, the actual rate of coverage reduces as age increases. For youngsters aged between 13 and 18, the rate of access to education is 67 percent. Of those between 17 and 24 years of age, public universities absorb only 3.6 percent, with an additional 5 percent absorbed by private institutions.³ All these figures are significantly worse for students belonging to the poorest sectors of the population and in rural areas where the enrollment rate is four times lower than in urban areas.⁴

² ODM. *Objetivos de Milenio. Informe Alternativo de la Sociedad civil – Paraguay 2000/2005*, Plataforma Paraguay Sin Excusas contra la Pobreza, Asunción, 2005.

³ Julio Miguel Martín, *idem*.

⁴ Plataforma Paraguay Sin Excusas contra la Pobreza. *Informe Alternativo de la sociedad civil – Paraguay 2000 – 2005*, Asunción.

16. Precisely to help students of limited resources to access basic education, the National Constitution establishes that the State shall promote programs of nutritional complement and facilitate academic supplies to those students. As such, the Paraguayan state has developed a series of programs that go from the provision of a limited amount of scholarships, delivery of supplies and nutritional complements to subsidized public transportation passes. These programs have advanced the sub-guarantee of **financial protection**. Yet, even with the sizeable help that they give to disadvantaged families, access to education is still considered to be linearly correlated with the level of income.

17. Both the National Constitution and the General Education Law establish that access to basic education is free-of-charge for all citizens. Moreover, they postulate that other levels of education can also progressively benefit from a free-of-charge access to services. To realize this commitment, these legal instruments establish that the resources allocated to education in the national budget shall not be less than 20 percent of the total budget assigned to the Central Administration, excluding loans and trust funds. This shows that the country has taken steps towards consolidating the financial domain of a social guarantee to education, further advancing the sub-guarantee of financial protection. In practice, however, although the budgetary allocation to education approached this level in 1999 with 19.4%, it is currently far from fulfilling the constitutionally guaranteed level. Furthermore, Basic education is not completely free-of-charge because although no monthly fees are collected, students generally need to pay an annual tuition. As a result, the sub-guarantee of financial protection is still at a pre-guarantee level.

18. Several legal, institutional and policy devices have been created by the Paraguayan state to guarantee non-discrimination in the access to educational services. On the one hand, drawing on a constitutional commitment, the Ministry of Education has developed a special program, the *Proyecto Educativo de Abordaje Pedagógico de las Necesidades Educativas Especiales asociadas a la Discapacidad* to offer quality education to people with disabilities and special needs, implemented by the Disability Commission. Despite this significant step, Paraguay has not yet fully developed a clear drive to mainstream the education of disabled people into the existing educational policy of the country.

19. On the other hand, indigenous peoples enjoy a series of constitutional guarantees that protect their cultural particularities with regards to formal education. Instrumentally, the National Commission on Bilingualism is in charge of guaranteeing that education, at least at the beginning of the learning process, will be imparted in the official mother tongue of the student, i.e. Guarani or Spanish. Ethnic minorities whose original language is not Guarani will be able to choose between one of the two official languages of the country. To deepen and expand these commitments, the Program for Strengthening Indigenous Education was created in 2002. This program has been implemented in a participatory fashion, inviting indigenous communities to discuss mechanisms that would help to protect their cultural legacies and inform better public policies with regard to education. In spite of the noteworthy notoriety that this program has given to the need of ensuring the protection of indigenous cultures, Paraguay has not yet fully developed a comprehensive indigenous education policy that can guarantee indigenous peoples' access to educational services without any discrimination.

20. Paraguay has performed relatively well in guaranteeing **continuous provision** of primary educational services to those already in the system. As a matter of fact, the provision of primary educational services is guaranteed all throughout the academic year by the fact that the funds used to pay teachers and principals are included in the National Budget under items that do not depend on governmental decisions to be executed (after its approval). Thus, from the supply side, any interruption of the academic year is highly improbable. In fact, with very few exceptions, during

the last decade Paraguay has not suffered from other types of suspensions that those occasionally caused by teacher strikes, and even so relatively fewer in relation to similar countries.

21. As a fundamental instance of citizen **participation**, the Parents Associations have been instrumental in ensuring that schools secure basic infrastructure and supplies for the continuous provision of services. In an act of community management, they develop activities to afford the ordinary expenses of the school where their children attend. Routinely, they collect and administer a “voluntary financial contribution” that all students are required to make to the school, which helps covering basic supplies and services. For all its successes, the Ministry of Education considers these associations as fundamental instruments of co-management of the educational system.

22. Although the **quality** of education has historically been considered as the most forceful handicap of the Paraguayan educational system, it is important to highlight that substantial progress has been made over the last decade, particularly regarding infrastructure improvements and enhanced teacher quality. With regards to the latter the percentage of teachers from 1st and 2nd cycles with a formal degree has increased from 65 percent in 1995 to 74.3 percent in 2001. Nevertheless, persistent poverty and inequality hamper the ability of the State to achieve steady quality improvements because “the countries with greater inequality have more difficulties in producing good academic results, because they must compensate for a greater deficit of origin”.⁵

23. The Education Law establishes a guarantee to develop **mechanisms of revision** of the country’s educational system that would allow for systematic and permanent improvements of service standards. These mechanisms shall be developed by the Ministry of Education in coordination with the Departmental Governments, the Municipalities and the communities which share the duty of overseeing the quality of education. In practice, however, no specific provisions have been made to develop effective mechanisms of revision that can inform better educational policies. One obstacle to this development is the fact that this legal sub-guarantee does not assign specific roles to any of the above-mentioned actors, diffusing the responsibility of the task.

24. The inability of the State to fully realize the constitutional guarantee to free-of-charge quality education for all citizens has led families to increasingly recur to **mechanisms of redress** to claim adequate service provision. Illustratively, 14 children were admitted as students in a parochial school in 2006 by means of a judicial ruling resulting from a demand interposed by parents of the children affected in their right to education. According to the demand, the children were about to lose their academic year because their parents were unable to fulfill the payment of five thousands *Guaranies* (one American dollar) per student required by the school, plus additional expenses for uniforms and supplies.⁶ Notwithstanding this notorious example, and a few others, the existing civic culture in Paraguay is not yet wholly accustomed to claim for quality of services. Arguably, this feature of the Paraguayan society is rooted in decades of undemocratic ruling that did not framed the access to education, and other social services, as citizen rights but rather as paternalistic concessions granted by the State to its subjects.

Overview and lessons

25. In Paraguay, the right to health is at a pre-guarantee level. Although bigger budgetary allocations would help improving coverage and quality of service, the main problems of the

⁵ José Joaquín Brunner y Gregory Elacqua. Factores que inciden en una educación efectiva. Evidencia Internacional

⁶ ABC color, 30 de mayo, 2006, pg. 35.

system come from deficient managerial practices, insufficient coordination, inadequate technology to monitor service delivery, and ineffective mechanisms of redress. Although enhanced institutional capacity of health institutions would surely provide tangible benefits to the health system, persistent poverty and inequality would also need to be addressed in order to develop a sustainable model. To fully realize the right of access to health, effective mechanisms of revision and redress will need to be developed. Only by empowering citizens to guard against inadequate service delivery and by developing more dynamic institutions the access to health can be upgraded to the social guarantee level.

26. Over the last 15 years, as part of its Educational Reform, the Paraguayan State has made remarkable investments to improve the quality of education, widen coverage, and upgrade the institutional design in the sector. Although significant improvements have been achieved, the Reform process has found it hard to cope with deteriorating social indicators and persistent disparities between the rich and the poor, and urban and rural populations. As a result, the guarantee of access to free-of-charge quality education for all citizens is still far from being fully realized. A diagnosis conducted five years after the beginning of the Educational Reform shows that at the classroom level, the same deficiencies observed at the beginning of the process still persist, such as, questionable teacher quality, outdated pedagogical methodologies, and lack of revision mechanisms. Even with all its unsolved challenges, the Educational Reform in Paraguay is a good example of how small incremental improvements in all or several sub-guarantees can produce tangible results.

Source: Palau, Francisco; González, Sirley; Otter, Thomas; Gaete, Rubén; Lachi, Marcello. 2007. "Analysis of a Rights-Based Approach to Social Policies in Paraguay" adapted by Lisandro Martín from authors' report *Análisis con enfoque de derecho a las políticas sociales en el Paraguay: sectores de salud y educación*, commissioned by the World Bank, Social Development Department.