

## Peru: The Role of Civil Society<sup>1</sup>

### Context

1. Peru's social policy has been directly influenced by its political history, which for almost a century has been characterized by political and social instability, military coups, fragile democracy, and weak institutions. Though the state established and implemented a variety of legal, institutional, instrumental, and financial measures to meet specific social needs during those periods, there was no systematic approach to social service delivery or coherent vision of creating a system of social guarantees. Nevertheless, some of the key normative, institutional and programmatic decisions have resulted in important social improvements and created a potential foundation for a rights-based policy.

2. Peru faces stark poverty and inequality, reflected in drastically different social development indicators between urban and rural areas and racial/ethnic/cultural communities. Indicators measuring child mortality and children's nutritional levels reveal the urban/rural disparities: In 2004, UNICEF determined that child mortality was 24 in every thousand live births in urban areas versus 45 per thousand in rural areas, while 63.4 percent of children under 5 had adequate nutrition in urban areas, versus only 30 percent of their rural counterparts (UNICEF 2004). Urban/rural population distribution also corresponds with racial and ethnic identity, with white/*mestizo* communities more likely to be urbanized than indigenous and Afro-descendant Peruvians (most concentrated on the coast)<sup>2</sup> comprising proportionally more of the impoverished, rural populations. Indigenous populations, 30 percent of whom speak no functional Spanish, occupy the lowest socio-economic position, and half of them live in the five southern Andean regions (Schneider and Zúniga-Hamlin 2005, p. 573). Gender inequality also persists, with women comprising 64 percent of Peru's total illiterate population, the majority of whom are indigenous women.

3. Since the 1990s, social spending in Peru has steadily increased, with the central government significantly enlarging its social expenditures, consolidating federal management of social programs, and encouraging direct engagement by users as a means to mitigate the structural adjustment-induced hardships confronting the population, particular the poor (Cotlear 2006, p. 31). Following Fujimori's ouster in 2000, the transitional government and the new president, Alejandro Toledo, began to explicitly prioritize implementation of a social agenda. The Government broke new ground by initiating the Roundtable for Poverty Reduction, which brought together government, civil society, the private sector, and international donor agencies to

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<sup>1</sup> Taken from: World Bank. 2008. "Realizing Rights through Social Guarantees: An Analysis of New Approaches to Social Policy in Latin America and South Africa" Social Development Department, Report No. 40047 – GLB. This summary was adapted by Rachel Nadelman from the original report, *Análisis de las Garantías Sociales en Educación, Salud, Alimentación y Pueblos Indígenas en el Perú* by Enrique Vásquez H., Universidad del Pacífico. The original report was commissioned 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>.

<sup>2</sup> Inequality also exists among excluded groups. Afro-descendant Peruvians (between 5-10 percent of the population) are, overall, less poor and have greater access to social services and than do Indigenous Peruvians, when the aggregate populations are compared. Yet both groups are disadvantaged in comparison with white/*mestizo* Peruvians, and both face ongoing discrimination that affects their ability to realize their social rights. See Benavides et al. (2006, p. 13).

reach a multi-sector agreement on social policies, improve efficiency in service delivery, and institutionalize citizen participation in design, decisionmaking, and financial planning for state-sponsored social policy.

4. In the context of stabilizing the country and creating a more just society, the Toledo Government employed the language of human rights and social protection in its social policy legislation. The social policy was based on four main pillars: (a) the Peruvian Social Charter, which established the objectives of creating jobs for everybody, guaranteeing access to health, education, and culture, and creating a state at the service of its people; (b) the Millennium Development Goals; (c) the National Assembly, which brought together political forces and set specific policies for the achievement of equity and social justice; and (d) the Strategy to Overcome Poverty and Develop Economic Opportunities for the Poor (elaborated in 2004), which aimed at creating economic opportunities for the poor and a social protection network; strengthening human, social, and institutional capacities; and promoting transparency and citizens' participation.<sup>3</sup>

5. Of the new social policies implemented, the legislation requiring that local governments formulate budgets in a participatory manner has significant potential to be transformative. Along with ongoing processes to decentralize governance, the new policies fostering participation and local empowerment are increasing the percentage of households that participate in local decisionmaking and the sense of entitlement to be part of the decisionmaking process, particularly among women and youth.<sup>4</sup> However, these laws face significant implementation challenges, such as lack of municipal capacity, opposition from municipalities or traditional community leaders, and the misalignment of community-developed projects with long-term development goals.

6. Since 2006, the new administration of Alan Garcia has enacted additional legislation that has the potential to significantly affect social welfare and human rights. The administration's National Plan for Human Rights 2006-2010, drafted in partnership with representatives from government and civil society, and with inputs from public hearings, frames strategic guidelines to institutionalize rights-based policies and implement affirmative action policies favoring the most vulnerable populations. At the same time, the revision to the NGO Law, approved in December 2006, gives the state Agency of International Cooperation (APCI), the power to supervise NGOs, including human rights NGOs, "in accordance with national development policy and the public interest." As will be demonstrated in the analysis below, much of the programmatic realization of social policy, particularly in the health sector, has relied on NGOs. Therefore, depending on how it is implemented, this law could be an obstacle to the realization of social rights in Peru.

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<sup>3</sup> Significant outcomes of this reformulated social policy have included the National Accords (2002), Peru's response to the Millennium Declaration, which continued the efforts of the transitional government and engaged political, religious, civil society, and government organizations in planning to improve equity and social justice; the Organic Laws of Regions and Municipalities (2002), which created minimum standards and participatory institutions to govern local authorities; legislation in 2004 (with complementary norms in 2005) requiring all regions and municipalities to produce participatory budgets; and a cash transfer program for Peru's poorest to develop human capital and break the inter-generational poverty cycle.

<sup>4</sup> See Cotlear (2006) for a discussion of participatory budgeting and laws on decentralization, regional governments, and municipalities.

7. Table 4 captures key elements of existing social guarantees and pre-guarantees in Peru relating to education, health and nutrition. Utilizing the sub-guarantees discussed above, the 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.

**Table 4. Accessing Social Guarantees in Education, Health and Food in Peru**

<b>Sub-Guarantees</b>	<b>Education</b>	<b>Health</b>	<b>Food</b>
	<b>Access</b>		
<i>Are the beneficiaries and services clearly defined?</i>	Yes — children aged 4-16; Basic education (initial, primary and secondary) is guaranteed	Yes for most health programs and strategies.	Yes, for all food programs.
<i>Are there institutional procedures for monitoring access?</i>	By law, the parent associations, APAFAs, are responsible to watch for it. There is no information on actual procedures or statistics of APAFAs intervention.	No, not on a regular basis. (Coverage achieved by the Integrated Health System, SIS was measured in 2006.)	An institutional framework for monitoring food programs exists. <sup>5</sup>  The state does receive information on breaches to access.
<i>Are there legal or institutional mechanisms that ensure non-discrimination in the access to services?</i>	APAFAs are responsible for ensuring that no one gets excluded (their effectiveness to this end is questionable, since the parents of excluded children generally have less opportunity to participate in such associations).	The right of access to health is legally guaranteed for all citizens, and an emphasis is placed on citizens with disabilities.  There are no special procedures/mechanisms that ensure non-discrimination.	Not specified.
<i>Are services guaranteed for the amount of time needed?</i>	Yes, by law, though there is a high incidence of drop-outs.	Not clearly, and not for all treatments. For hospitalization there is a maximum period of 10 days.	There is no definition of the “amount of time needed.”
<i>Is there a maximum waiting period for receiving the service?</i>	Not clearly specified.	No.	No.
<i>If service is unavailable within this waiting period, what is a guaranteed alternative (in the same time period)?</i>	None: Alternative education programs exist for adults who did not complete basic education but they are not a replacement of timely education.	None.	No.

<sup>5</sup> Unified Regional Registry for Beneficiaries of Social Programs, created by Law 28540. Through it the state is supposed to monitor under-coverage.

### Financial Protection

<i>Do beneficiaries need to contribute to the cost of service?</i>	Yes, about one-third.	Yes, although Law 26842 declares that services for the poorest will be free and subsidized by the state.	Labor contribution is required.
<i>Are services accessible to those who cannot contribute to the cost?</i>	Yes by law, though incidence of drop-outs is higher in low income families.	No clear information.	Yes. There are problems of access, discussed below; however they are not related to cost contribution.
<i>Is this information effectively communicated to the public?</i>	Education Ombudsman ( <i>Defensorías Escolares</i> ) APAFAs are also supposed to communicate information to parents.	Some is communicated through NGOs.	Yes, through Mothers' Clubs, People's Canteens/Soup Kitchens, NGOs, community organizations, as well as through women's organizations and social workers.

### Quality

<i>Are there clear quality standards?</i>	No. While Article 6 of the new <i>Ley General de Educación</i> N° 28044 (Cotlear, 2006) provides a quality education based on standards and norms determined by the Ministry of Education, Peru in fact does not have an operational system of educational standards by which students can measure performance or progress (Guigale et al., 2007, p. 22).	No information, although there are programs and institutions that have an explicit function to ensure quality. <sup>6</sup>	Yes. Ex.: min 207 kcal of milk or equivalent nutrient per ration in the Glass of Milk program. <sup>7</sup>
<i>Are programs being evaluated on a regular basis?</i>	Not by the new evaluation s/m SINEACE. Otherwise the Ministry of Education has performed evaluations for '96, '98, '01, and '04. <sup>8</sup>	Through PANFAR (targeted health and nutrition program for high-risk families) and National Institute of Health.  This is not performed in a regular manner and does not encompass all basic health care	There is minimum supervision on the ground. Some evaluations are performed by CENAN ( <i>Centro Nacional de Alimentación y Nutrición</i> ).

<sup>6</sup> Program "Coverage with Quality" – started by USAID and continued by the Government.

<sup>7</sup> See discussion about various actors setting quality standards in the analysis below.

<sup>8</sup> Ministry of Education, Office for Measuring the Quality of Education (*Unidad de Medicion de la Calidad Educativa*, UMC)  
[www.minedu.gob.pe/umc/](http://www.minedu.gob.pe/umc/).

services.

*Are standards and evaluation results clearly communicated to the public?*

The Ministry of Education publishes information on results of learning evaluations. Yet, such results are not made available to parents and teachers in each district and school. Many parents and teachers, especially in rural areas, are not aware of how their students perform relative to other schools.

No.

No, many beneficiaries are not aware if the food rations they or their children receive adhere to the nutritional minimum.

### Redress and Enforcement

<i>Are there mechanisms allowing citizens to claim adequate provision of the services guaranteed?</i>	<p>Yes:</p> <ul style="list-style-type: none"> <li>- Parent Associations (APAFAs) – not very effective for lack of information and/or resources;</li> <li>- Ombudsman (created in 1993; has offices in every region; attended 46,227 cases Apr-Dec 2005, 4.8 percent of whom were indigenous).</li> </ul>	<p>No, despite existing institutions:</p> <ul style="list-style-type: none"> <li>- INFOSALUD created by the Ombudsman for Health and Transparency;</li> <li>- judiciary<sup>9</sup>;</li> <li>- Ombudsman.</li> </ul>	<p>Only as far as informing civil society actors on options for redress through workshops, conducted by the Ombudsman.</p>
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### Participation and Continual Revision

<i>Do civil, parent, or community organizations have a concrete role in the design, implementation, and monitoring of the program?</i>	<p>Yes. Parent’s Associations and the NGO <i>Foro Educativo</i>.</p>	<p>NGO <i>Foro Salud</i> (an umbrella NGO for health advocacy organizations).</p>	<p>Mothers’ Clubs; Self-Managed Canteens – both have rights of representation and vote in the management and financial decisions of the National Program for Food Assistance (PRONAA).</p>
<i>Which law or institution guarantees citizens’ involvement?</i>	<p>Law 28628 regulates the participation of Parents’ Associations in educational institutions, including in their evaluation and certification. No institutional body is responsible for guaranteeing participation.</p>	<p>Ministry of Health General Law on Health 26842 (Art. 14) – the state guarantees that everyone has the right to participate individually or collectively in programs for the improvement of health.</p>	<p>Law 27731 (Art. 2) establishes the rights of the above organizations to participate in management and budget decisions regarding food programs. The responsible institution for guaranteeing this right is the Ministry of Women and Social Development. The Unified Registry of Beneficiaries of Social Programs is regularly revised under the supervision of regional governments, and technical support from the Ministry of the Economy and Finances and System for Household Focalization.</p>
<i>Are there mechanisms that allow for continual improvement of services?</i>	<p>Not explicitly guaranteed. Programs with related functions are: <i>Huascarán</i>, PROMOLIBRO Program for Educational Infrastructure Investments.</p> <p>The incorporation of new technologies in education is guaranteed by law only:</p>	<p>None. Improvements can occur in each hospital through physician’s protocols but this process is not guaranteed.</p>	<p>The Unified Registry of Beneficiaries of Social Programs is regularly revised under the supervision of regional governments, and technical support from the Ministry of the Economy and Finances and System for Household Focalization.</p>

<sup>9</sup> Three cases of judicial redress have become known: two of poor people to whom HIV treatment was refused, and one of a group of women, supported by two NGOs, to whom access to oral contraception was not provided (Vasquez 2007, p. 32). It is impossible to extract information on health cases (unless they become public from other sources) because court registries show only the number of cases presented and whether they have been resolved, but do not desegregate them by sector.

There is no information whether this mechanism has led to any actual improvements in food programs.

### *Education*

8. The Peruvian state guarantees its citizens a pre-school through secondary education, and has introduced legal, institutional, instrumental, and financial mechanisms to actualize that guarantee. The 1979 Constitution introduced education as a social right (Vásquez 2007, p. 13) and the General Law of Education<sup>10</sup> of 2003 codified that right, charging the Ministry of Education with implementation and managerial responsibilities and establishing that the education provided would be accessible, of measurable quality, equitable, intercultural, inclusive, and available to all regardless of economic means.<sup>11</sup> While this law established commitment in all five areas covered by the sub-guarantees in the above matrix, not all of them are being equally realized.

9. Peru has been successful in providing open educational **access** to its populace, demonstrated by high rates of school enrollment and completion. Since 1970, Peru has consistently provided comprehensive education coverage above the Latin American average, and can tout impressive statistics, particularly for a country of Peru's per capita GDP, with 94 percent primary school completion and 88 percent secondary school completion (Vásquez 2007, p. 21). This locates Peru, in terms of coverage, close to developed country standards (Cotlear 2006, p. 4). This educational availability and accessibility across a widely diverse population is a significant change from the past, and the visibility of school attendance and grade promotion has been a strong indicator for educational attainment. Drop-out rates, however, are significantly higher for children from poor families compared to the non-poor.<sup>12</sup>

10. The fulfillment of the right to access, however, has not corresponded with the availability of **quality** education (Cotlear 2006, p. 4). The General Law of Education considers it a key priority to decrease disparities in quality among public schools; yet it is unclear how that goal is being pursued in practice. During the same 30-year period that Peru's educational coverage has steadily expanded, student achievement has been markedly low (Cotlear 2006, Guigale 2007).<sup>13</sup> The World Bank's 2006 study, "A New Social Contract for Peru," asserts that the low achievement of Peruvian students has resulted in large part from the Government putting a higher priority on expanding coverage than on improving the quality of the education provided (Cotlear 2006, p. 4).

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<sup>10</sup> *ibid.*

<sup>11</sup> Peru's General Law of Education 28044 <http://www.educared.edu.pe/general/mundo2/243/conozca-la-nueva-ley-general-de-educacion-n-28044/>.

<sup>12</sup> See World Bank (2005c).

<sup>13</sup> International education measurement tools, such as the Program for International Student Assessment (PISA), ranked Peruvian students below the Latin American average for reading and overall academic performance. Among the 41 countries participating in the assessment, Peru ranked last (Guigale 2007, p. 21).

11. A study by the Ministry of Education also revealed a bleak picture (Ministry of Education 2004). For graduates of primary school, fewer than 8 percent of students possessed adequate basic language and mathematical skills; and language and math skills fell far below basic levels for 75 percent and 43 percent, respectively. For secondary school graduates, fewer than 24 percent tested satisfactory in language skills, and fewer than 5 percent exhibited sufficient math skills (Vásquez 2007, p. 16). These evaluations show that while Peru is actively realizing the sub-guarantee of access, the education provided is not of sufficient quality for adequate skill-building, with the result that Peruvians are “very well schooled but very poorly educated” (Guigale 2007, p. 21).

12. As noted above, the General Law of Education states that the Ministry of Education will establish “standards and norms for each level and modality of the Peruvian educational system...in order to provide a quality education” (Article 3).<sup>14</sup> Yet, Peru has not created or implemented a unified standard for measuring and monitoring educational quality. Ministerial Resolution 168 provides that education centers “have the autonomy to disseminate indicators, criteria and instruments of auto-evaluation to measure learning ... in order to make adequate decisions for improving quality and equity.” However, it does not *oblige* them to do so, and because there are no national standards against which these centers can manage learning, it is unclear how they even would measure performance. To address these problems and operationalize the guarantee of quality, two programs with overlapping functions were consequently created to operationalize the guarantee of quality – the Unit for Measuring Quality of Education, and the National System for Evaluation, Accreditation and Certification of the Quality of Education (SINEACE). SINEACE, the more comprehensive mechanism of the two, is not yet functional. This lack of operational standards has serious implications for Peru’s realization of education as a social guarantee.

13. With regard to the guarantee of **financial protection**, Article 16 of the 1993 Constitution makes education a priority for public spending, and Article 3 of the General Law of Education establishes the government’s duty to ensure that no citizen be prevented from receiving adequate education for reasons relating to his/her economic status. However, there appears to be insufficient budget allocation to effectively fulfill this guarantee. Peru’s public educational expenditure for 2002-2004, as a percentage of total government expenditure, was low for the region (Vásquez 2007, p. 22). For pre-primary and primary education in 2002-2004, it was 17.1 percent of total government expenditure, compared to 18.1 percent in Bolivia, 18.5 in Chile, and 20 percent in El Salvador – though it is still higher than in Colombia, Argentina, Nicaragua, and Paraguay (World Development Report 2006). Of this minimal budget allocation for education, 90 percent of the budget for primary and secondary education has been channeled to payroll expenses, leaving only 10 percent for investment in educational resources, educational facilities (school buildings, classrooms, maintenance) teacher training, monitoring and evaluation, and other areas necessary for the provision of high quality educational services.<sup>15</sup> The minimal resources have translated in some parts of Peru into providing fewer instructional hours in poorly maintained facilities, especially for the most isolated populations (Vásquez 2007, p. 22). Yet, even with such a high proportion of financial resources allocated to payroll, teacher salaries have

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<sup>14</sup>Peru’s General Law of Education 28044 <http://www.educared.edu.pe/general/mundo2/243/conozca-la-nueva-ley-general-de-educacion-n-28044/>.

<sup>15</sup> See *The Education Sector in Peru*. Public Expenditure Tracking Survey, p. iii (Instituto Apoyo 2002).

decreased as coverage has increased. Between 1982 and 2002, an 85 percent increase in teacher hiring was accompanied only by a 5 percent increase in education spending (Vásquez 2007, p. 18).

14. The government funding available appears to cover only about two-thirds of actual public education spending, meaning that parental contributions must cover one third or more, depending on the area of Peru, of public education costs. This raises doubts about the reality of open access for low-income students, since financial hardship might hinder their ability to attend school over the long term. Indeed, there is a clear difference between continued school attendance in urban and rural areas, with 76.2 percent of urban youth between 12-16 years old attending secondary school, versus 48.9 percent of rural youth (Ramirez 2004, p. 346). Even within rural communities, there are notable discrepancies in enrollment rates between non-indigenous and indigenous youth, and for children from female-headed households (Sanchez-Paramo 2007).

15. The primary **mechanisms for redressing** inadequacies within the school system include Parent Associations (APAFAs) and an Ombudsman, created in 1993, who has offices in each region. The APAFAs, authorized by Law 28628 (Law on the Participation of Parents' Associations in Public Educational Institutions),<sup>16</sup> were created to offer both a mechanism to rectify problems within the education system and a means for community participation. Though these associations give parents the unlimited right to pursue grievances, the majority of APAFAs have not been active in addressing quality concerns. Parental inaction has been attributed to the fact that Peru possesses neither a culture of evaluation nor a set of official achievement standards by which to assess student progress. This lack of established standards impedes the ability of both parents and officials to understand and assess student performance (in relation to grade level and subject area); as well as how funds are invested (regarding management, administration, teacher training, etc.). As expressed by Guigale et al. (2002), in *An Opportunity for a Different Peru*, "since there is no official literacy standard, or actual official data to compare against the standard, there is no social pressure to improve reading skills." Even with the implementation of some domestic evaluations, such as the 2004 Ministry of Education study mentioned above, the lack of established standards against which the results can be measured limits the ability of students, parents, and even government to hold the system accountable for the services it provides. This helps to explain why many parents surveyed have expressed little or no dissatisfaction with students' low educational achievement and skill level, and why few APAFAs have mobilized to use the mechanisms available to them to address the problem.

16. The lack of nationwide scholastic standards also contributes to inequality, since parents' ability to interpret scholastic performance relies on their own capacity to obtain educational information. This situation privileges higher-income and urban groups, which will more likely have independent means of assessing their children's performance in the context of their communities' educational provision, and therefore are better able to use the redress and revision mechanisms available through their APAFA to advocate for improvements.

17. Recent decentralization within public education has the potential to offer new opportunities for participation and local power-sharing in monitoring and addressing quality

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<sup>16</sup> EDUCARED, Peru, [http://www.educared.edu.pe/directivos/gestion.asp?id\\_articulo=806](http://www.educared.edu.pe/directivos/gestion.asp?id_articulo=806).

issues. Yet in the absence of a culture of evaluation and national standards against which results can be measured, decentralization carries with it the risk of exacerbating quality disparities. Those communities with the lowest educational achievement are less likely to have the means to access resources by which they can begin to hold schools and teachers accountable.

18. Bilingual education programs have been one way to address problems of access and, to a lower degree, quality. Since the 1970s, there has been normative recognition of the need for bilingual and intercultural education for Peru's sizeable indigenous population. Beginning in 1972 with the Education Reform Law and the National Policy for Bilingual Education, and re-confirmed by the 1993 Constitution and the General Law of Education, Peru has committed to providing intercultural and bi-lingual education at all education levels. An important part of this commitment is a dedication to preserve indigenous cultural traditions within the curriculum, while also providing skill-building equal to that which the rest of the population accesses (Vásquez 2007, p. 74-76). Article 19 of the General Law on Education specifically uses rights language, asserting that Peru's mandated right to education will be ensured for its indigenous communities, specifically by "establishing special programs"<sup>17</sup> that meet their unique needs, such as text books in the vernacular and instruction in Spanish as a second language.

19. While institutions such as the Ministry of Education and initiatives such as the Program for Bilingual and Intercultural Education were created to implement this mandate, bilingual and inter-cultural education and schooling for indigenous youth in Peru remains, in reality, at a pre-guarantee level. At most, 10 percent of students whose mother language is indigenous have access to bilingual education; and for those living in rural zones (the majority), inter-cultural education does not go beyond the primary level (Vasquez, 2007 p. 78). For those who do not have access to bilingual schools, there are other barriers to receiving quality education in addition to linguistic and cultural obstacles. On average, indigenous students face far longer commutes to the nearest school (Vásquez 2007, p. 79). Another study (Hernandez-Zavala et al. 2006) revealed that, on average, the teaching staff serving indigenous communities had significantly lower levels of education and fewer years of instructional experience. The impact of these factors can be seen in the significant discrepancies between indigenous and non-indigenous skill levels in core subjects such as mathematics and Spanish.

### *Health*

20. Peru has a rights-based legal framework for health promotion, although it emphasizes individual rather than state responsibility in fulfilling that right. The 1993 Constitution (Article 7) and the General Law on Health (Law 26842) of 1997 state that citizens have the right to participate individually or collectively in health-improving activities; but neither establishes the right of an individual to a healthy life (Vásquez 2007, p. 28). The current framework is actually a step backwards in terms of rights-based norms in Peru, since the 1979 Constitution had established the right of all citizens to health care (Vásquez 2007, p. 27). Yet, even though the Ministry of Health (MINSA) currently operates without rights-based underpinnings, it has institutionalized health pre-guarantees in its strategic policy, asserting "that health is an inalienable right for human beings," to be supported by all sectors of the government (Vásquez

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<sup>17</sup> <http://www.educared.edu.pe/general/mundo2/243/conozca-la-nueva-ley-general-de-educacion-n-28044/>.

2007, p. 28). In addition, the General Law on Health requires the state to disseminate relevant health information, stipulating that “every individual has the right to be adequately informed by health authorities on measures and best practices regarding hygiene, nutrition, mental health and a healthy lifestyle” (Vásquez 2007, p. 27). The state has implemented several health promotion programs based explicitly on a rights perspective, considering the “individual and not the disease” as the focus of attention.<sup>18</sup>

21. The General Law on Health guarantees all Peruvians “unhindered access to health.” The public health sector comprises the Ministry of Health (MINSA), the national Social Security in Health Company (ESSALUD), and the health care units of the Armed Forces and the National Police. MINSA provides the majority of services utilized by the poor, particularly those living in rural areas, although it manages less funding than ESSALUD (Perez et al. 2006, p. 112). As in education, Peru has achieved relatively high coverage levels for health services, most markedly in pediatric interventions such as immunization provision and care for respiratory infections (Cotlear 2006, p. 6). Particularly between 1996 and 2006, Peru implemented several new health programs of significant scale, including the construction of new hospitals and health centers. Yet even with improved coverage, **access** to care is still a significant concern, and is considered a key factor in the inequality in health outcomes, particularly between urban and historically isolated populations. The majority of health resources are concentrated in Lima and the Lima district, particularly specialized care (Perez 2007, p. 116). Even so, the 2003 Living Standards Measurement Survey (LSMS) found that geography is less of an obstacle to accessing health services than it once was. Rather than coverage, the main impediment to access has become cost. One in two Peruvians does not have insurance coverage (Guigale et al. 2007, p. 23); and of the 13.4 million people captured by LSMS as having suffered an illness in 2003, only 62 percent received medical treatment. Of those who did not access care, approximately two-thirds cited the inability to pay (Cotlear 2006, p. 8).

22. **Financial protection** for health does exist in Peru, although it is not based on a rights perspective. Peru’s General Law on Health guarantees financial protection for those with minimal resources, asserting that state financing will be preferentially oriented to subsidize (partially or fully) health care for those without other public or private means to pay for service. In addition, MINSA’s governing objectives ensure financial coverage for the poor, and the state-sponsored program of insurance for the poor (the Integrated Health System, SIS), along with other state-supported funds, ensure free or subsidized health services for the poor. SIS boasts 9 million affiliated constituents; however, even with the normative and institutional guarantees, the financial protection available is not reaching all who qualify (Vásquez 2007, p. 47). One reason could be widespread unawareness among the poorest communities of their health rights and available support services (Vásquez 2007, p. 47). It is not clear how the state disseminates information about what comprises this assistance or how to access it. Therefore, even with the promise of financial protection, the reality remains that the poor are 4.8 times more likely than the better-off **not** to receive health care, and citizens are put in the position where they must finance 39 percent of their health expenses, with most of this going for medication (Perez, et. al. 2006, p. 107).

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<sup>18</sup> Statement on the Model for Integrated Attention to Health [MAIS] program; see Aliaga 2003, p. 207.

23. Article 8 of Peru's Ministry of Health Law (Law 27657) guarantees that health provision will be of "good quality" according to medical and scientific criteria. Yet in practice, few guiding standards exist in Peru's health industry, from health care provision to research to regulation, by which to evaluate quality (Vásquez 2007, p. 34; Cotlear 2006, p. 37). In addition, the information systems that capture health statistics used to measure outcomes are weak, because of underdeveloped monitoring practices and other challenges in data collection gathering (Cotlear 2006, p. 37). Hospital operations offer only minimal transparency, which interferes with evaluation and accountability, whether the issue is the use of public money, comparing health outcomes across regions, or staff hiring and firing. Moreover, MINSA does not control its own budget, unlike other government ministries, which means it is less able to improve quality when it learns of weaknesses in its programming or to pursue other mechanisms for revision (Perez 2007, p. 130). Since the majority of health services for the poor are provided through MINSA, this lack of budgetary control directly affects their health programs. The public's lack of awareness (among doctors and patients) about service quality entitlements, and the ability to pursue redress for poor service in some hospitals exacerbates these quality concerns.

24. Peru's normative framework does not include a guaranteed right to **mechanisms for redress**. While the General Law of Health states that "all people have the right to demand that health authorities disseminate pertinent health information (Vásquez 2007, p. 34), no norms have been instituted mandating that citizens have channels to claim their rights to health services. Yet because Article 7 of the 1993 Constitution establishes citizens' right to participate in health services, NGOs have been able to assist some individuals who have been denied care to pursue recourse through Peru's judicial system (see footnote 26 in Table 4). Citizens can also turn to the Ombudsman for assistance in accessing health services to which they believe they are entitled; though in reality, the public does not have a clear understanding of the system's decisionmaking processes or how to use the Ombudsman's administrative mechanisms for redress.

#### *Food Policy*

25. Nutritional support and food assistance programs comprise one component of Peru's overall health policies. They represent about 0.4 percent of GDP and reach approximately 9.5 million beneficiaries (Cotlear 2006, p.26). This aspect of health is not legally or normatively recognized as a fundamental right for citizens, but instead is included in the 1993 Constitution as a parent's responsibility on behalf of his/her child. Rights-based obligations, therefore, do not drive the state's nutritional initiatives; instead, food services to the public have been guided primarily by changing political priorities. Over the past 30 years, the government's strategy has evolved from functioning primarily as a coordinating body for externally supplied aid (1970s), to launching targeted direct assistance not necessarily coordinated with non-governmental service providers (1980s), to institutionalizing collaboration with civil society food providers under federal management to improve implementation (1990s). In the past decade, there has been an increase in initiatives that provide food support to vulnerable and disadvantaged groups as a means to guarantee the right to nutritional health. While not underpinned by law, this rights-based philosophy has shaped program design and implementation and justified decisions to protect budget allotments for certain programs.

26. State intervention to improve citizens' nutritional health began in 1972, with the establishment of the National Office for Food Support (ONAA) to coordinate international food assistance (reception, transport, and dissemination); followed in 1974 by the creation of the Ministry of Nourishment to improve nutrition by better harmonizing food production and consumption (World Bank 1993, p. 44).<sup>19</sup> In the 1980s, the government expanded its nutritional support, transitioning from functioning primarily as a coordinating agency to administering government-sponsored food programs. These programs included: the Direct Assistance Program (PAD) for employment-based food assistance; and the Glass of Milk Program to meet the nutritional needs of at-risk children under 6 years old. In the 1990s, as part of the overall social policy expansion in the face of structural adjustment, funding for nutritional support increased and existing programs were concentrated under the management of the Ministry of the President. This included merging PAD and ONAA into the National Program for Food Assistance (PRONAA) to create one central government initiative through which most other food programs would be managed (Glass of Milk is managed separately).

27. Peru's nutritional health programs have had two important achievements: establishing laws and norms that promote active citizen **participation** in implementation and decisionmaking; and protecting **programs' budgetary allocations**. Glass of Milk's legal framework, Law 27460, protects the program's resources from fluctuating economic cycles and changes in political decisionmaking. That Law also implemented decentralized administration, with mandated civil society representation. Since community groups, primarily made up of mothers of beneficiaries, handle the bulk of preparation and distribution for the government-funded program, their inclusion in management means that the people most aware of operational challenges and opportunities have a central role in decisionmaking. In forming PRONAA, the government also recognized the critical role of community-based food programs in nutritional assistance by passing Law 27732, which institutionalized civil society involvement in the design, implementation, budgetary decisionmaking, and revision of nutritional programs. The laws underpinning both Glass of Milk and PRONAA prioritize public "voice and vote" which establishes conditions in which beneficiaries can pursue redress when they believe their needs are not being adequately met. In addition, Law 27740 establishes basic quality standards, including a nutritional minimal (determined by the National Institute of Health and usually set at 207 kcal per ration<sup>20</sup>) to be provided 7 days a week and by which service quality is to be evaluated.

28. Yet even these programs, administered with increased resources, a rights-based philosophy, protected budget lines, participatory governance structures, and measurable quality standards, have had minimal impact on reducing malnutrition in Peru, which continues to afflict one in three children under five years old (UNICEF 2004). One factor has been low utilization rates among eligible Peruvians, which translates into minimal **access**. As a result, even with a coverage level of 68 percent in 2005, only 28 percent of those eligible actually benefited from the program (Vásquez 2007, p.68). For the citizen canteens managed under PRONAA, the results have been better, but still with a large gap between coverage and utilization – 97 percent and 36

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<sup>19</sup> These initial programs were weak and plagued with problems. The Ministry of Nourishment closed not long after its founding, and the ONAA managed to coordinate only a fraction of incoming food aid, while different networks of NGOs held the bulk of responsibility and distributed far larger volumes of food support and reached more beneficiaries.

<sup>20</sup> Centro Peruano de Estudios Sociales. "El Sector Lacteo en Peru y en el Mundo," <http://www.cepes.org.pe/cendoc/cultivos/leche/20031100/20031100.htm>. Website accessed on May 15, 2007.

percent, respectively (Vásquez 2007, p. 63). Another factor is inadequate funding, which minimizes the benefits of **financial protection**. Though government resources for nutritional health have steadily increased since the 1990s, Peru still allocates less than the regional average to its food programs. Even with institutionalized financial protection, for instance for the Glass of Milk program, the resources available remain inadequate because the funding allotment, while protected, remains at a level insufficient to effectively reach all those in need.

29. Another issue is that citizen participation in program decisionmaking has had some negative results. Law 27470's expansion of Glass of Milk to include 6-13 year olds and the elderly could be seen as an attempt to increase coverage in response to beneficiary input. On closer examination, however, one can see that many of those children in the upper age bracket were not new participants, but youth who had aged out of the initial program, most of them from families involved in program implementation who wanted their children to continue receiving services. In addition, this reallocation of services to older youth has meant that fewer children 6 and under receive nutritional support from Glass of Milk, the age group targeted because of how critical these formative years are for human development. This situation demonstrates that even mandated participation can become exclusionary, benefiting community members empowered in leadership roles at the expense of the rest of the community. The conclusion should not be that participation is problematic, but instead that management and monitoring mechanisms must accompany active community participation to ensure that objectives continue to be met and that those who participate cannot take advantage of the power gained through their direct involvement.

30. Even for those able to access the programs, it is unclear whether the interventions are significant enough to adequately nourish the undernourished. The programs have been criticized as "food and not nutrition programs" (Vásquez 2007, p. 64), since the **quality** standards for the food distributed are not necessarily sufficient to transform an individual's overall nutritional level, and distribution is not connected to any other kinds of education or health interventions that could augment the effects (Cotlear 2006, p. 39).

31. The effectiveness of **mechanisms for redress** varies significantly. On the local level, where community participation is encouraged and promoted, members can address issues as they arise with the implementing civil society organizations in efficient, transparent processes. However, the mechanisms for addressing problems with local and federal government partners have proven to be inaccessible and ineffective. In principle, citizens are educated about available mechanisms for redress at higher levels by civil society groups, which receive training from the Ombudsman (Defensoría del Pueblo 2006). Yet, in reality, the ability of citizens to even learn of these mechanisms depends entirely on whether civil society groups are present and active in a given region and have the capacity to disseminate such information. Even if civil society activity is strong in a given area, there is no functional mechanism through which the Ombudsman, PRONAA, or Glass of Milk administrators and civil society can collaborate to resolve complaints. Further, since it appears that the Ombudsman does not track such complaints, it is unclear how many complaints are being filed and what are the areas of dissatisfaction (Vásquez 2007, p. 58).

*Conclusion and Lessons*

32. The three sectors reviewed in the Peru study all suggest limitations to the intention to implement a social policy that fulfills fundamental social and economic rights. In the education sector, the weakness of quality standards throughout the system undermines the effectiveness of a school system which delivers impressive levels of access. Peruvians' capacity to intervene to claim improvements in quality is restricted by the lack of information on educational quality, and the lack of established scholastic standards by which student progress can be measured. In the health sector, the lack of information on rights, as well as inaccessible and ineffective redress mechanisms have resulted in substantial inequalities in access to health care. In relation to food policy, while key programs have been designed with strong participatory mechanisms at the local level, such mechanisms have proven inaccessible or ineffective at higher decisionmaking levels. The evidence suggests that this hampers the capacity of citizens to make claims for access, and to exert pressure for improved effectiveness and quality.

**Source:** World Bank. 2008. "Realizing Rights through Social Guarantees: An Analysis of New Approaches to Social Policy in Latin America and South Africa" Social Development Department, Report No. 40047 – GLB.