



# Implementing the Right to Education:

How Latin American countries implement the  
UNESCO Convention against Discrimination in Education

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Published in October 2012 by PubbliTesi

PubbliTesi  
Via Barberini, 3  
00187, Roma  
Italia

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This thesis was written while the author was enrolled in the Master in International Sciences  
(Human Rights Branch) from 2010 to 2012 at *Università degli Studi di Torino*

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Mark: 110/110, *Summa Cum Laude*, Dignity of Publication Award

*Implementing the Right to Education: How Latin American Countries Implement the UNESCO  
Convention Against Discrimination in Education*

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ABSTRACT

How do Bolivia, Colombia, Cuba, Guatemala, Mexico, and Venezuela implement the right to education at a national level, while complying with international standards? What are the legislative frameworks of these countries regarding the right to education? Are these initiatives effective enough to achieve progress? How is progress measured in education? What progress have these six Latin American countries achieved in order to improve the quality and inclusiveness of education at a national level? What are the current and future challenges they face and where can they improve?

This thesis will attempt to answer these questions by evaluating how these six Latin American governments implement the right to education, and hence, their progress thus far achieved towards Dakar's six Education for All (EFA) goals of 2000, which are: 1) Expand early childhood care and education; 2) Ensure universal primary education; 3) Meet youth and adult learning needs; 4) Improve levels of adult literacy; 5) Ensure gender parity and equality in education; and 6) Improve the quality of education.

These goals will serve as focus areas of governance and implementation by the six Latin American governments, as well as reference indicators that can measure the progress achieved in the field of education. The framework of evaluation will consist of measuring how these governments have implemented the right to education by cross-analyzing the education legal framework of each country with UNESCO's 1960 Convention against Discrimination in Education (CDE). However, in order to measure progress and the social impact of each respective legal framework, this thesis will report on the evaluation conducted of the statistical results reported by the EFA Development Index (EDI) in each country for the period between 1998 and 2008. In order to get a sample of where Latin America stands in education, the six countries were chosen based on their EDI average from 1998 until 2008, as well as based on the average of the amount from their respective national budgets destined to education. Two countries were chosen out of the lowest EDI ranking Latin American countries (Colombia and Guatemala), two from the middle (Bolivia and Venezuela), and two from the highest (Cuba and Mexico).

The main pieces of legislation to be analyzed by this thesis, which make up the foundation of the legal framework for the right to education of the above mentioned countries along with their respective national constitutions, consist of: Bolivia's Education Law No. 70 *Avelino Siñani - Elizardo Pérez* of December 20<sup>th</sup>, 2010; Colombia's Law. No. 115 on General Education of February 8<sup>th</sup>, 1994; Cuba's Law on the First Comprehensive Education Reform of December 26<sup>th</sup>, 1959, as well as the Law on the General and Free Nationalization of Education of June 6<sup>th</sup>, 1961; Guatemala's Law on National Education of January 12<sup>th</sup>, 1991; Mexico's General Law on Education of July 13<sup>th</sup>, 1993, as last revised in 2012; and Venezuela's Organic Law of Education of August 13<sup>th</sup>, 2009.

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FOREWORD AND ACKNOWLEDGEMENTS

**Foreword**

After having gone through a year and a half of non-stop research and work for this thesis, 6 years of different educational experiences that I have carried out, as well as 23 years of having gone through the educational life process myself, I have no doubt in my mind that education holds the key to not only our survival, but to our happiness, sustainable development, and peace. The quality of our lives and that of our planet's depend on education – one that is of quality, inclusive, objective, multicultural, creative, innovative, updated, and lifelong. One of the main pillars that can sustain this type of education system is that of equality, i.e. on a non-discriminatory basis, for all humans are born equal and have the same potential to reach their own maximum development *IF* the education they receive gives them the tools to do so. That is why education is so vital.

Thus, since our human society has structured itself and giving itself an organization that implies for a government to play the “parent role”, it is mainly up to them to carry on the responsibility of providing such an education system. Nevertheless, citizens also have the responsibility to voice out their demands, contribute to the rule of law that shall be democratically established, and actively participate in society. Citizens themselves can be active and be part of the governance structure of their own country by becoming teachers or governmental officials, creating NGOs, or opening non-formal education centers, for example.

Education has thus been recognized as a fundamental and inalienable human right. As a right, education must be permanently monitored in order to make sure that this right can be enjoyed by all, and, that national governments worldwide protect, fulfill, and expand it. This requires permanent investment, innovation, and cooperation if we are to thrive and to strive for the improvement of our lives, that of our children's, as well as the Earth's.

The reason I chose to focus on Latin America is extremely personal, for it is the continent that I mainly feel defines my identity and it is where I developed my first 8 years of life. I thus feel a moral responsibility to dedicate my work to Latin America and its population; a people that have experienced exploitation and inequality throughout history by foreigners and even by their own countrymen – a people that nevertheless have humility, courage, and one of the strongest potentials and will power to improve in life and live it to the fullest. Notwithstanding, I hope that the work this thesis presents reflects the universal importance and power that education has in our human lives and that of the planet.

**Acknowledgements**

Other than the life opportunity and experience itself that I lived in the process, this thesis could not have been possible without the collaboration of: UNESCO's Right to Education Program, specifically without the help and support of Delphine Dorsi, Rolla Mourné, and Kishore Singh; UNESCO Education Sector's Documentation Center and Knowledge Management Services; the nineteen UNESCO Permanent Delegations of Latin America (Argentina, the Plurinational State of Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, and the Bolivarian Republic of Venezuela); and last but not least, my family and friends who supported me along the one and a half year process of research and execution of this thesis in Paris and Torino. Words cannot express my gratitude.



## **Introduction**

How can national governments intervene to provide their populations with the freedom to enjoy the right to education? Does an international treaty exist to protect the enjoyment of the right to education? How is the right to education protected at a national and at an international level? What are the trends that education faces in the Latin American continent<sup>1</sup>? How do the governments of Bolivia, Colombia, Cuba, Guatemala, Mexico and Venezuela implement the right to education at home, while complying with international standards? What are the legislative frameworks of these countries regarding the right to education? Are these initiatives effective enough to achieve progress? How is progress measured in education? What progress have these six Latin American countries achieved in order to improve the quality and inclusiveness of education at a national level? What are the current and future challenges they face and where can they improve?

This thesis will attempt to answer these pressing questions by evaluating how these six Latin American governments implement the right to education at a legislative level, as well as their progress thus far achieved towards Dakar's six Education for All (EFA) goals<sup>2</sup> of 2000.

The framework of evaluation consists of measuring how these governments have implemented the right to education by cross-analyzing the legal framework of education for each country with UNESCO's 1960 Convention against Discrimination in Education (hereinafter: CDE). However, in order to measure progress and the social impact of each respective legal framework, this thesis will analyze the statistical results reported by the EFA Development Index (EDI) in each country for the period between 1998 and 2008, as Chapter 9 shall evidence. The six EFA goals serve as focus areas of governance<sup>3</sup> within the context of the CDE, since the CDE was recognized by UNESCO's Executive Board as a key pillar of EFA (Decision 171 EX/28 of April 2005).

For this thesis, two countries were chosen out of the lowest EDI ranking Latin American countries (Colombia and Guatemala); two from the middle (Bolivia and Venezuela); and two from the highest (Cuba and Mexico). Parallel to that, one country was chosen out of the lowest average education funding between 2000 and 2012 (Bolivia), three

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<sup>1</sup> According to the UN Department for General Assembly and Conference Management, and according to the Geopolitical Group of Latin America and the Caribbean's (GRULAC) 2011 Regulation (p. 2), the regional complex of "Latin America" is composed of the following 19 countries: Argentina, the Plurinational State of Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, and the Bolivarian Republic of Venezuela. Sources: <http://www.un.org/depts/DGACM/RegionalGroups.shtml> and <http://secretariagrulacuiop.org/portal/wp-content/uploads/2011/06/ultimo-REGLAMENTO-GRULAC-APROBADO-15-OCTUBRE-2011-125-ASAMBLEA-EN-BERNA.pdf>

<sup>2</sup> The six EFA goals are, as established by the Dakar Framework of 2000: 1) Expand early childhood care and education; 2) Ensure universal primary education; 3) Meet youth and adult learning needs; 4) Improve levels of adult literacy; 5) Ensure gender parity and equality in education; and 6) Improve the quality of education.

<sup>3</sup> "Governance" is understood as the set of activities and interactions that give shape to local policies aimed at tackling local and/or national issues and at having a positive social impact (Caponio, 2006, pp. 11-13).

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from the middle (Colombia, Guatemala, and Mexico), and two from the highest (Cuba and Venezuela). Furthermore, half of the six countries had to be States Parties to the CDE, since this thesis rests upon the CDE as the main international normative instrument regimenting the Human Right to Education.

Part of the research conducted for this thesis concerned direct contact with the Latin American Permanent Delegations to UNESCO in Paris regarding their compliance with the CDE. If a Latin American Member State to UNESCO had not yet ratified the CDE (Bolivia, Colombia, El Salvador, Honduras, Mexico, and Paraguay), the research and engagement consisted of: 1) collecting data as to why CDE ratification has not yet taken place from the Delegations themselves; 2) promoting and advocating for CDE ratification; 3) providing the Permanent Delegations with technical support to begin the CDE ratification process, if solicited; and 4) following-up on such progress. Moreover, all nineteen Permanent Delegations were also asked to provide relevant and updated country-level information on the legal and political framework concerning the right to education.

This thesis is structured in three parts: The first part consists of Chapter 1 and 2. Chapter 1 depicts the context of the legal international framework of education, which shall serve as the point of reference to evaluate the six countries at a national level. Chapter 2 reports on the funds allocated to education by each of the nineteen Latin American countries from 2000 until 2012. The second part measures the engagement of these six governments concerning the implementation and the protection of the right to education by analyzing their overall education framework. This framework consists of their respective and principal legal, political and social measures carried out at a national. This framework translates into how well these countries comply with the international law that sets the minimum standards for education.

Each country has its own chapter, which have the following sub-divisions: *historical background; the right to education and its principles; non-discrimination; primary and secondary education; higher education; quality of education; continuing education; teacher training; human development; the rights of parents; minority rights; and financing education*. These sub-divisions were derived from the principal provisions established by the CDE, as Chapter 1 shall explain in detail. It is worth mentioning that not all sub-divisions of each country are elaborated on an equal basis, since each country presented its own specific and diverse peculiarities.

The third part of this thesis measures the progress achieved by these countries regarding education (Chapter 9), and sets forth some national, regional and international observations and recommendations (Conclusion). The measured education progress of Chapter 9 is based on the assessment of the implementation of the right to education through the analysis of the EDI for each country from 1998 until 2008.

## **Chapter 1: The Right to Education**

### **The Right to Education**

One of the main goals of an education system is to achieve the full development and realization of individual human beings. Education enables a person to contribute to society as an independent and emancipated citizen. Education can cultivate a population with an understanding of the public tasks, and the demand to be heard, i.e. to exercise his or her rights and freedoms. In this way, education can contribute to the prevention of autocratic regimes, which would otherwise prevent its population from exercising their human rights and freedoms.

The Human Right to Education, as a social good, constitutes a solid foundation for human development. Its implementation, protection and fulfillment lead to the creation of opportunities, freedom of choice, economic sustainable growth, improvement of health conditions, poverty reduction, social mobility enhancement, and autocratic rule prevention (Coomans, 2007, p.185). In other words, education is a means to risk-prevention, as well as a tool that can help improve the human quality of life in a sustainable manner.

Another important benefit of education lies within its potential to mitigate conflict. Education can mitigate conflict by: 1) altering societal contradictions through structural prevention; 2) improving relations and interactions through behavioral prevention; and 3) encouraging changes in attitudes through attitudinal prevention (Kotite, 2012, p.13). Below, Table 1.1 displays the characteristics that encompass these three levels of prevention (structural, behavioral, and attitudinal).

**Table 1.1. Characteristics of the Three Levels of Prevention (Kotite, 2012, p.13)**

<b>Type of prevention</b>	<b>Characteristics</b>
<b>Structural</b>	<ul style="list-style-type: none"> <li>- Access to education is an indicator of equity since it is linked to income earning potential and the ability to diminish inequalities.</li> <li>- Education is a policy tool that can increase social cohesion.</li> <li>- Inadequate educational services can exacerbate state fragility.</li> <li>- Education serves as a barometer of a state’s commitment to and relationship with its people.</li> </ul>
<b>Behavioral</b>	<ul style="list-style-type: none"> <li>- School systems can combine the interests of diverse groups while establishing a common model for good citizenship.</li> <li>- Schools and teachers are the direct actors that impart the interpersonal, political, social, and legal aspects of good citizenship.</li> <li>- Classrooms bring together people of different origins and teach them how to work together peacefully.</li> <li>- Participatory educational processes can build relationships inside and outside school that are built upon trust, cooperation, and reciprocity.</li> </ul>
<b>Attitudinal</b>	<ul style="list-style-type: none"> <li>- Peace education has positive effects on students’ attitudes.</li> <li>- Teachers can serve as vectors to demonstrate positive values, such as acceptance of diversity, kindness, and empathy.</li> <li>- Teaching students the values of cooperation and tolerance of cultural differences helps overcome prejudicial stereotypes that opportunistic leaders routinely use for their own ends.</li> </ul>

All the benefits that a quality and inclusive education, i.e. on a non-discriminatory basis, may bring about within a society, at a national and international level, serve as evidence to humanity that education is a key right that unlocks the enjoyment of other human rights (Coomans, 2007, p.186). Advocacy and claims for human rights surge when an individual or group is prevented from enjoying any of all of our human rights, i.e. when they are discriminated against from enjoying a certain right. Since a human right is a universal entitlement, its implementation is measured particularly on the degree to which it benefits and empowers those who thus far have been among the human rights “have-nots” (Chapman, 1994).

All human rights give rise to multiple types of duties. The full protection of a right requires both the right-holder and duty-bearer to comply with different positive and negative duties. This dualistic dynamic can be traced back to the 18<sup>th</sup> century philosopher Immanuel Kant and his principle of human dignity and respect developed in several of his pieces such as *The Groundwork of the Metaphysics of Morals*. Kant retained that each human being has dignity and worth; therefore, it is wrong for others to invade one’s dignity and worth against one’s own will.

Kant’s principle is used to justify fundamental rights, which are categorized into positive and negative rights. Positive rights are rights that provide people with what they need in order to secure their wellbeing, e.g. right to life, right to education, right to food, right to water, right to health, right to housing, etc. This means that the right-holder must be provided with the necessary resources and means to enjoy a specific right; a task which bestows unto

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someone else the duty to provide these resources and means. Negative rights are called “negative” because they impose a duty onto the duty-bearer, e.g. the duty not to interfere with a person’s privacy and dignity. “Negative” is thus interpreted as the non-interference of the State in one’s personal sphere of freedoms and liberties.

The positive right to education, for example, imposes on the State the duty to positively intervene by providing a quality education to those who need it to secure their own as well as society’s wellbeing. Therefore, positive rights impose onto the State the duty to positively intervene to help sustain the collective welfare. Education is not only an end, but rather a mean: the mean for our world to achieve sustainable development and long-lasting peace. It is thus that education as both a mean and an end to development, and therefore as an essential component of human life, translates into a “Human Right”.

Not only does the right to education exhaust itself by itself and for itself, but is indispensable for the exercise of other human rights. A quality education as a right becomes the concrete key that empowers individuals to fully develop their personalities and participate in society through the acquisition of knowledge, human values and skills. Thus, education as a right can provide a solid tool in poverty reduction strategies worldwide.

The realization of the right to education therefore depends on its effective and continuous implementation by governments worldwide that engage themselves in fulfilling the international rule of law. The rule of law is a core value of the United Nations and a principle of governance in which all persons, institutions, and entities are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights, norms and standards (UN System Task Team on the Post-2015 UN Development Agenda, 2012, p.23). It is an artifice made up of norms and processes for a secure society that encompasses a strong judicial system, representative governance, security and human rights, transitional justice mechanisms, inclusion of civil society, an electoral system, and accountability of those who violate the law including public officials and the State (Kotite, 2012, p.25).

Obligations and political commitments under international instruments must be reflected in constitutions, national legislation, policies, strategies, programs, and results. Moreover, education as a right should be therefore enforced through administrative tribunals and national human rights institutions, as well as Ombudspersons where they exist. In violation of their right to education, citizens must be able to have legal recourse before the law courts or administrative tribunals.

Thus, the key question to be raised is: how does the International Community<sup>1</sup> engage and govern to carry out the duty to protect, expand, and fulfill the Human Right to Education for their respective population?

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<sup>1</sup> In this thesis, “International Community” refers to national governments worldwide which are represented by their respective diplomatic officials within the United Nations System, e.g. National Permanent Delegations of UNESCO, who interact in the international fora to create and implement international law instruments concerning education.

## **The Role of UNESCO**

In the United Nations system, UNESCO has the principal role and responsibility when it comes to education, science and culture. The Joint Expert Group (CR)/ECOSOC (CESCR) on the Monitoring of the Right to Education, established by UNESCO's Executive Board in 2001, has a broad mandate of monitoring the right to education in all of its dimensions. It plays a valuable role in mutually reinforcing working methods and monitoring mechanisms of CESCR and the CR in making the monitoring more effective, with special focus on the Education for All (EFA) goals.

UNESCO, as the United Nations Educational, Scientific, and Cultural Organization, has the “duty not only to proscribe any form of discrimination in education, but also to promote equality of opportunity and treatment for all in education” (UNESCO, 1960, CDE). The purpose of UNESCO “is to contribute to peace and security by promoting collaboration among the nations through education, science and culture in order to further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms which are affirmed for the peoples of the world, without distinction of race, sex, language or religion, by the Charter of the United Nations” (Article 1.1 of UNESCO's 1945 Constitution). Moreover, “the Governments of the States Parties to this Constitution on behalf of their peoples declare...that the wide diffusion of culture, and the education of humanity for justice and liberty and peace are indispensable to the dignity of man and constitute a sacred duty which all the nations must fulfill in a spirit of mutual assistance and concern” (Preamble of UNESCO's 1945 Constitution).

Hence, UNESCO serves as the arena and forum where governments around the world gather to advocate for and defend education, *inter alia*, not only through dialogue and the establishment of “best practices”<sup>2</sup>, but especially through the creation of legally-binding international law instruments that make the protection and development of a more inclusive, free, accessible and quality education a duty for the 195 governments of the world<sup>3</sup>. This legal element not only serves in making UNESCO legitimate in front of governments, but also in making governments more accountable at an international level for the duties they bear towards their citizens and each other. The General Conference of UNESCO met in Paris from November 14<sup>th</sup> to December 15<sup>th</sup>, 1960 with this purpose. On its agenda, the Conference had the priority to discuss the principle of non-discrimination and the right to education as established by the Universal Declaration of Human Rights (UDHR, 1948), which enshrines the right to education in Article 26. During its tenth session, the Conference decided to make the pressing question into the principal subject for an International Convention and

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<sup>2</sup> “Best practices” are singled-out and described innovative and particular experiences of country-level intervention. These practices are established through research and dialogue within international organizations by singling-out cases of successful practices, which can serve as practical examples of e.g. initiatives, measures, projects, programs, plans, strategies, policies, cooperation, etc. that could be implemented in other countries to solve similar problems. However, since these practices are unique and country-specific, they cannot be mutually compared, and should be adapted to the specific needs and interests of a country (Caponio, 2006, p. 95).

<sup>3</sup> For a list of the 195 Members (and the 8 Associate Members) of UNESCO and the date on which they became members (or Associate Members) of the Organization, as of November 23<sup>rd</sup>, 2011, please consult: <http://www.unesco.org/new/en/member-states/countries/>.

Recommendation for States Parties. Thus, on December 14<sup>th</sup>, 1960 the UNESCO General Conference adopted the Convention against Discrimination in Education (hereinafter: CDE), which entered into force on May 22<sup>nd</sup>, 1962.

## **The Convention against Discrimination in Education (CDE, 1960)**

The CDE is composed of 19 articles; however, this thesis will use Articles 1 through 5 as the standards to be measured against the legislative provisions of the Education Laws of the six countries under analysis, since these articles are those which hold the dispositions and duties to be implemented at a national level by States Parties.

The legally-binding nature of the CDE is established by Article 4, which states that “States Parties to this Convention undertake furthermore to formulate, develop and apply a national policy...” However, what are the main duties and guiding principles that States Parties should act out?

Articles 1 and 2 of the CDE give a detail definition to the term “discrimination”, understood as “any distinction, exclusion, limitation or preference which, being based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth, has the purpose or effect of nullifying or impairing equality of treatment in education...”, while Article 3 sanctions the principles of non-discrimination concerning: the admission of pupils to educational institutions; equality of treatment (merit-based and need-based) in the matter of school fees and financial assistance; no group-based restrictions nor preferences in the education system; and equal access to education among nationals and foreigners.

Moreover, Article 4 not only formulates the legally binding clause, but also sanctions the following duties and actions for States Parties to abide:

- Make primary education free and compulsory;
- Make secondary education in its different forms generally available and accessible to all;
- Make higher education equally accessible to all on the basis of individual capacity;
- Assure compliance by all with the obligation to attend school prescribed by law;
- Ensure that the standards of education are equivalent in all public educational institutions of the same level, and that the conditions relating to the quality of the education provided are also equivalent;
- Encourage and intensify by appropriate methods the education of persons who have not received any primary education or who have not completed the entire primary education course and the continuation of their education on the basis of individual capacity;
- Provide training for the teaching profession without discrimination.

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CHAPTER 1: THE RIGHT TO EDUCATION

**Article 5** (which coincides with Article 26.2 of the UDHR) establishes the guiding principles and goals of education agreed by the States Parties:

*“Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms; it shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace”.*

Furthermore, Article 5 sanctions some rights to parents and minority groups. It gives parents, or legal guardians, the right “to choose for their children institutions ... [and] to ensure...the religious and moral education of their children in conformity with their own convictions”. For national minority groups, it recognizes their right “to carry on their own educational activities, including the maintenance of schools, and, depending on the educational policy of each State, the use or the teaching of their own language”; however, this right shall “not [be] exercised in a manner which prevents the members of these minorities from understanding the culture and language of the community as a whole and from participating in its activities, or which prejudices national sovereignty”. These minorities must also maintain the standard of education “laid down or approved by the competent authorities; and that attendance at such schools is optional”. These latter restrictions are meant to promote national unity and tolerance, in order not to give way to separation and segregation that can lead to discrimination among the different groups present within a country. Paragraph 2 of Article 5 gives the freedom for States Parties “to take all necessary measures to ensure the application of the principles enunciated in paragraph 1 of this Article”.

Unlike the UDHR, and other international and regional human rights instruments that protect the right to education<sup>4</sup>, the CDE is the only legally binding instrument that exclusively focuses on the right to education for all. The implementation of the CDE is monitored by UNESCO’s Executive Board<sup>5</sup> with the technical collaboration of the Right to Education Program<sup>6</sup>, the Conciliation and Good Offices Commission<sup>7</sup>, and as last resort, the

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<sup>4</sup> The following are non-exhaustive examples of universal and regional normative instruments, other than the CDE, which protect the right to education: the Universal Declaration of Human Rights (1948) in Article 26, the American Declaration of the Rights and Duties of Man (1948) in Articles 12, the First Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms (1963) in Article 2, the International Convention on the Elimination of All Forms of Racial Discrimination (1965) in Articles 5(v) & 7, the International Covenant on Economic, Social, and Cultural Rights (1966) in Articles 13 and 14, the American Convention on Human Rights “Pact of San Jose, Costa Rica” (1969), the Convention on the Elimination of Discrimination against Women (1979) in Article 10, the African Charter on Human and Peoples’ Rights (1981) in Articles 11 and 17, the Protocol of San Salvador (1988) in Article 13, the Convention on the Rights of the Child (1989) in Articles 28 and 29, as well as the ILO Convention No. 169 Concerning Indigenous and Tribal Peoples in Independent Countries (1989) in Articles 26 and 27.

<sup>5</sup> Through the Committee on Conventions and Recommendations of the Executive Board, which is a permanent subsidiary body of the Executive Board, as well as through its Secretariat, i.e. the Office of International Standards and Legal Affairs. Official website of the Committee:

[http://portal.unesco.org/en/ev.php-URL\\_ID=32176&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=32176&URL_DO=DO_TOPIC&URL_SECTION=201.html)

<sup>6</sup> For more information, please consult the UNESCO Right to Education Program:

<http://www.unesco.org/new/en/education/themes/leading-the-international-agenda/right-to-education/>



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International Court of Justice if a conflict cannot be resolved by its States Parties. Other than the customary resolutions and decisions<sup>8</sup> adopted by UNESCO's General Conference during its plenary sessions that set the legal standards for the periodic reports by Member States on the implementation and monitoring of the CDE and its Recommendation, the obligation of UNESCO's Member States to report on the implementation of adopted standard-setting instruments and the legal normative function of the CDE are guaranteed by Articles IV(4), IV(6), and VII of the UNESCO Constitution (1945), and by Article 7 of the CDE respectively. Below are the quoted obligations established by the above mentioned Articles:

**UNESCO Constitution of 1945:**

*“Article IV (4) The General Conference shall, in adopting proposals for submission to the Member States, distinguish between recommendations and international conventions submitted for their approval. In the former case a majority vote shall suffice; in the latter case a two-thirds majority shall be required. Each of the Member States shall submit recommendations or conventions to its competent authorities within a period of one year from the close of the session of the General Conference at which they were adopted... (6) The General Conference shall receive and consider the reports sent to the Organization by Member States on the action taken upon the recommendations and conventions referred to in paragraph 4 above or, if it so decides, analytical summaries of these reports.”*

*“Article VII. Reports by Member States. Each Member State shall submit to the Organization, at such times and in such manner as shall be determined by the General Conference, reports on the laws, regulations and statistics relating to its educational, scientific and cultural institutions and activities, and on the action taken upon the recommendations and conventions referred to in Article IV, paragraph 4.”*

**UNESCO Convention against Discrimination in Education of 1960:**

*“Article 7 The States Parties to this Convention shall in their periodic reports submitted to the General Conference of the United Nations Educational, Scientific and Cultural Organization on dates and in a manner to be determined by it, give information on the legislative and administrative provisions which they have adopted and other action which they have taken for the application of this Convention, including that taken for the formulation and the development of the national policy defined in Article 4 as well as the results achieved and the obstacles encountered in the application of that policy.”*

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<sup>7</sup> The Conciliation and Good offices Commission was founded on December 10<sup>th</sup>, 1962, by the *Protocol Instituting a Conciliation and Good offices Commission to be Responsible for Seeking the settlement of any Disputes which may Arise between States Parties to the Convention against Discrimination in Education*.

Link to Protocol:

[http://portal.unesco.org/en/ev.php-URL\\_ID=15321&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=15321&URL_DO=DO_TOPIC&URL_SECTION=201.html)

<sup>8</sup> 70 EX/Decision 5.2.1; 71 EX/Decision 3.2; 75 EX/Decision 6.II; 77 EX/Decision 8.3; 15 C/Resolution 29.1; 15 C/Resolution 12.2; 81 EX/Decision 6.II.

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According to Article IV (4 & 6) of the UNESCO Constitution, the General Conference can adopt “recommendations”, which are adopted by a majority vote, and “international conventions”, which are adopted by a two-thirds majority. Unlike conventions, recommendations are standards-setting instruments that do not require ratification; however, Member States are nevertheless encouraged to abide by Article IV (6) concerning their reporting obligation to UNESCO (UNESCO, 2008, pp.7-8). Both the Convention and the Recommendation against Discrimination in Education were adopted on December 14<sup>th</sup>, 1960, with Article VII establishing the periodic reporting duty of States Parties; however, even if not States Parties to the CDE, UNESCO Member States have the duty to nevertheless report on the recommendations adopted by the General Conference.

Hence, the CDE has the potential of serving as an accountable, effective, and justified tool for its States Parties to be guided by in order to improve education and social conditions at country-level, and thus, improve the human socio-economic condition at global-level. Moreover, a quality and inclusive education for all serves as a solid base to build sustainable development for peace nationally and internationally. This is more evident when the CDE is faithfully abided and implemented by its States Parties, not to mention, when UNESCO effectively carries out the responsibility to monitor its implementation and promotion.

According to the UN Special Rapporteur on the Right to Education, Kishore Singh, the CDE constitutes foundation of the edifice of the international legal framework laid down by the UN Human Rights normative instruments on the Human Right to Education. The CDE serves as a tool to combat and overcome persistent inequalities and disparities in education worldwide. These latter ones, along with marginalization and exclusion, are negative effects brought about by globalization and the failure of good governance (Singh, 2011, p.7). It is therefore crucial to emphasize the importance of the principle of non-discrimination, for marginalization (whether derived from national policies or sinister side-effects of globalization and capitalism) constitutes as a global challenge that limits an individual or group of people from enjoying any of the human rights promoted at all levels (local, national, regional, and international).

## **The Birth of the CDE**

The birth of the CDE is in part due to the context of “discrimination and segregation in education under the apartheid regime in South Africa” (Coomans, 2007, p.190) enforced by the National Party governments of South Africa between 1948 and 1994. The apartheid was formally institutionalized when the most radical and racist conservative party took power in 1948, who established a separatist regime based on ethnic membership and race, i.e. the color of one’s skin (Colombo, 2002, p.39). The separation came about in public places and services, such as schools, public transport, bars, restaurants, public offices, etc., while the concession of political rights was reserved for the white-in number minority, in other words, the descendants of the powerful white colonizers (Colombo, 2002, p.40).

The critical aspect that is raised here is the radical ideology behind such regime, i.e. a racist ideology that aimed at diminishing “the other” (“the inferior”) and preventing any possible form of contact between the existing different groups, for it was seen as a potential source of contamination. Socially, this translates into a double case of discrimination: these native minority groups are excluded and subjugated by those who hold the socio-economic and political power, as well as subjected to negative prejudices that tend to limit their possibilities of not only realizing their full self-development, but their chances of integrating and participating in society. Their social, political, and economic positions remain marginalized. It is thus a problem of opportunities to acquire social resources that allow for the full and dignified realization of an individual and his or her social mobility; elements that help sustain the democratic principles that have helped the international community leave a violent past behind and strive for peace locally, nationally, regionally, and internationally.

The official separation of the education system in South Africa based on race came about with the passing of the Bantu Education Act No. 47 of 1953. The Act transferred the administration, employment, financing, management and control of the “Government Bantu Schools”, which were established for the participation of the Bantu “native” people (Article 12), from the provincial administrations to the Government of the Union. The Minister of Native Affairs had the mandated power to decide who was to be employed in these schools (Articles 4 & 5), what they should teach and how the schools should be managed (Articles 2, 3, 7, 12); and, how much funds would be destined to or withdrawn from these schools (Articles 6 & 8). The Government had thus centralized control of the education destined to the Bantu ethnic group, or as according to the Act, “any aboriginal race or tribe of Africa” (Article 1v) to the Minister of Native Affairs. Article 5(c) of the CDE is accordingly formulated to prevent this type of centralized control that would endanger minorities from enjoying their cultural specific human right to education.

## **The Right to Education in Latin America**

To get a sample of the progress that the field of education has achieved in the Latin American continent, this thesis will attempt to evaluate how the respective governments of the Plurinational State of Bolivia, Colombia, Cuba, Guatemala, Mexico and the Bolivarian Republic of Venezuela have implemented the right to education at a legislative level. The main pieces of legislation to be analyzed by this thesis, which make up the foundation of the legal framework for the right to education of the above mentioned countries along with their respective national constitutions and related laws, consist of:

1. **Bolivia: Law of Education No. 70 Avelino Siñani - Elizardo Pérez**<sup>9</sup> (*Ley No. 70 de la Educación “Avelino Siñani - Elizardo Pérez”*) of December 20<sup>th</sup>, 2010.
2. **Colombia: Law of General Education No. 115**<sup>10</sup> (*Ley General de Educación*) of February 8<sup>th</sup>, 1994.
3. **Cuba: Law on the First Comprehensive Education Reform** (*Ley sobre la Primera Reforma Integral de la Enseñanza*) of December 26<sup>th</sup>, 1959, as well as the **Law of the General and Free Nationalization of Education**<sup>11</sup> (*Ley de Nacionalización general y gratuita de la enseñanza*) of June 6<sup>th</sup>, 1961.
4. **Guatemala: Law of National Education**<sup>12</sup> (*Ley de Educación Nacional*) of January 12<sup>th</sup>, 1991.
5. **Mexico: The General Law of Education**<sup>13</sup> (*Ley General de Educación*) of July 13<sup>th</sup>, 1993, as last revised in 2012.
6. **Venezuela: The Organic Law of Education**<sup>14</sup> (*Ley Orgánica de Educación*) of August 13<sup>th</sup>, 2009.

The legislative analysis measured against the CDE will be conducted in Chapters 3 (Bolivia), 4 (Colombia), 5 (Cuba), 6 (Guatemala), 7 (Mexico), and 8 (Venezuela) of this thesis. In part, these six countries were chosen based on their engagement with the international law of education, i.e. if they have ratified the CDE. Below, Table 1.2 displays the status of the nineteen Latin American countries concerning the ratification or acceptance<sup>15</sup> of the CDE.

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<sup>9</sup> Law of Education No. 70:

[http://www.minedu.gob.bo/index.php?option=com\\_content&view=article&id=87&Itemid=119](http://www.minedu.gob.bo/index.php?option=com_content&view=article&id=87&Itemid=119)

<sup>10</sup> Law of Education No. 115: [http://www.mineducacion.gov.co/1621/articles-85906\\_archivo\\_pdf.pdf](http://www.mineducacion.gov.co/1621/articles-85906_archivo_pdf.pdf)

<sup>11</sup> Law on the Nationalization of Education: [http://www.oei.es/quipu/cuba/Ley\\_educ.pdf](http://www.oei.es/quipu/cuba/Ley_educ.pdf)

<sup>12</sup> Law of National Education:

[http://www.mineduc.gob.gt/estadistica/2009/data/Conozcanos/Ley\\_Educacion\\_Nacional.pdf](http://www.mineduc.gob.gt/estadistica/2009/data/Conozcanos/Ley_Educacion_Nacional.pdf)

<sup>13</sup> General Law of Education: <http://www.diputados.gob.mx/LeyesBiblio/pdf/137.pdf>

<sup>14</sup> Organic Law of Education: <http://www.mppeu.gob.ve/web/uploads/documentos/marcolegal/3.pdf>

<sup>15</sup> “*Ratification*”, “*acceptance*”, “*approval*” and “*accession*” mean in each case the international act so named whereby a State establishes on the international plane its consent to be bound by a treat... The consent of a State to be bound by a treaty is expressed by acceptance or approval under conditions similar to those which apply to ratification - Arts. 2(1)(b) and 14(2), Vienna Convention on the Law of Treaties, 1969 ([http://untreaty.un.org/ilc/texts/instruments/english/conventions/1\\_1\\_1969.pdf](http://untreaty.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf)).

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**Table 1.2. The Status of CDE Ratification in Latin America**

<b>Country</b>	<b>Status</b>	<b>Date dd/mm/yyyy</b>
1. Argentina	Ratification	30/10/1963
2. Brazil	Ratification	19/04/1968
3. Chile	Ratification	26/10/1971
4. Costa Rica	Ratification	10/09/1963
5. Cuba	Ratification	02/11/1962
6. Dominican Republic	Ratification	30/08/1977
7. Ecuador	Acceptance	05/03/1979
8. Guatemala	Ratification	04/02/1983
9. Nicaragua	Ratification	28/09/1981
10. Panama	Acceptance	10/08/1967
11. Peru	Ratification	19/12/1966
12. Uruguay	Acceptance	03/05/2004
13. Venezuela, B.R.	Ratification	16/12/1968

As the table displays, only thirteen Latin American governments have engaged in the legally binding responsibility to implement the CDE at country-level. However, what about the other six Latin American countries (The Plurinational State of Bolivia, Colombia, El Salvador, Honduras, Mexico, and Paraguay) who have not yet become States Parties to the CDE? What other international law instruments bind them to protect the right to education? Even though these six countries are not legally bounded to the CDE, all six of them have become States Parties to at least five other legally binding international normative instrument that sanction the right to education. Below, Table 1.3 displays the other legally binding international normative instruments that sanction the right to education, along with the countries (out of the six not Parties to the CDE) that have ratified them.

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**Table 1.3. International Normative Instruments that Sanction the Right to Education**

<b>Legal Instrument</b>	<b>States Parties</b>	<b>Status</b>	<b>Date dd/mm/yyyy</b>
<b>International Convention on the Elimination of All Forms of Racial Discrimination (1965)</b>	1. Bolivia, P.S. 2. Colombia 3. El Salvador 4. Honduras 5. Mexico 6. Paraguay	1. Ratification 2. Ratification 3. Accession 4. Accession 5. Ratification 6. Ratification	1. 22/09/1970 2. 02/09/1981 3. 30/11/1979 4. 10/10/2002 5. 20/02/1975 6. 18/08/2003
<b>International Covenant on Economic, Social and Cultural Rights (1966)</b>	1. Bolivia, P.S. 2. Colombia 3. El Salvador 4. Honduras 5. Mexico 6. Paraguay	1. Accession 2. Ratification 3. Ratification 4. Ratification 5. Accession 6. Accession	1. 12/08/1982 2. 29/10/1969 3. 30/11/1979 4. 12/02/1981 5. 23/03/1981 6. 10/06/1992
<b>American Convention on Human Rights “Pact of San Jose, Costa Rica” (1969)</b>	1. Bolivia, P.S. 2. Colombia 3. El Salvador 4. Honduras 5. Mexico 6. Paraguay	1. Accession 2. Ratification 3. Ratification 4. Ratification 5. Accession 6. Ratification	1. 12/08/1982 2. 31/07/1973 3. 23/06/1978 4. 08/09/1977 5. 24/03/1981 6. 24/08/1989
<b>Convention on the Elimination of Discrimination against Women (1979)</b>	1. Bolivia, P.S. 2. Colombia 3. El Salvador 4. Honduras 5. Mexico 6. Paraguay	1. Ratification 2. Ratification 3. Ratification 4. Ratification 5. Ratification 6. Accession	1. 08/06/1990 2. 19/01/1982 3. 19/08/1981 4. 03/03/1983 5. 23/03/1981 6. 06/04/1987
<b>Indigenous and Tribal Peoples Convention (1989)</b>	1. Bolivia, P.S. 2. Colombia 3. Honduras 4. Mexico	1. Ratification 2. Ratification 3. Ratification 4. Ratification	1. 11/12/1991 2. 07/08/1991 3. 28/03/1995 4. 05/09/1990
<b>Convention on the Rights of the Child (1989)</b>	1. Bolivia, P.S. 2. Colombia 3. El Salvador 4. Honduras 5. Mexico 6. Paraguay	1. Ratification 2. Ratification 3. Ratification 4. Ratification 5. Ratification 6. Ratification	1. 26/06/1990 2. 28/01/1991 3. 10/07/1990 4. 10/08/1990 5. 21/09/1990 6. 25/09/1990

This comes to show that Latin America, and specifically the six countries under analysis (Bolivia, Colombia, Cuba, Guatemala, Mexico and Venezuela), have engaged at an international level to protect, expand, and fulfill the right to education for all of their respective populations. Chapter 2 will now analyze the financial engagement in education carried out by all of the nineteen Latin American governments.

## Chapter 2: The Financial State of Education in Latin America



Source: UNICEF

Map images from this chapter are all from UNICEF

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A free, accessible and quality education has a cost. In order to implement a free and accessible education system for all, States have thus a duty to destine financial resources to education within their national budgets. Other than the budget allocation destined to a country's Ministry of Education or Education Sector, these financial measures, for example, can also be financial aid initiatives provided for students and/or schools, e.g. merit and/or need based scholarships, credits, loans, school subsidies, awards, affirmative action, nutrition programs, fee-exemptions, free transportation, etc., funded by the public and/or private sectors.

Even though the CDE does not contain a specific provision that explicitly establishes the duty for States Parties to provide their respective education systems with financial resources, Article 4 establishes that "States Parties to this Convention undertake furthermore to formulate, develop and apply a national policy which, by methods appropriate to the circumstances and to national usage, will tend to promote equality of opportunity and of treatment in the matter of education...". Funding education is a necessary measure "by methods appropriate to the circumstances and to national usage" that States should take in order to be able to afford, and thus to pay for, a free, accessible and quality national education system. Thus, funding becomes an obligation when States engage in the duty, as established by Article 4 of the CDE:

- (a) To make primary education free and compulsory; make secondary education in its different forms generally available and accessible to all; make higher education equally accessible to all on the basis of individual capacity; assure compliance by all with the obligation to attend school prescribed by law;*
- (b) To ensure that the standards of education are equivalent in all public educational institutions of the same level, and that the conditions relating to the quality of the education provided are also equivalent;*
- (c) To encourage and intensify by appropriate methods the education of persons who have not received any primary education or who have not completed the entire primary education course and the continuation of their education on the basis of individual capacity;*
- (d) To provide training for the teaching profession without discrimination.*

Furthermore, Article 14 of the International Covenant on Economic, Social and Cultural Rights establishes that "each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all." This legally-binding provision implies the duty for State Party that have not yet done so, to fund for a "compulsory education free of charge for all".

Concerning the six countries under analysis, the legal engagement that these countries have to finance education at a national level is principally enshrined at a constitutional level. In other words, States take up the responsibility to destine funds to education since it is a fundamental human right and a key to the development of their society:



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- **Article 77 of the Bolivian Constitution** establishes that education is a supreme function and a primary financial responsibility of the State, which has the indeclinable duty to support, guarantee, and manage it, while **Article 81** establishes that State education is free at all levels.
- **Article 67 of the Colombian Constitution** stipulates that the education provided in State institutions shall be free of charge, subject to payment of school fees by those who are able to pay. It is a State duty to carry out final inspections and supervision of education in order to ensure quality and compliance with the established goals; improve the moral, intellectual and physical formation of students; ensure an adequate supply of service; and ensure the necessary conditions for minors to be able to have access to and continue in the educational system. The Nation and the territorial entities will participate in the management, financing and administration of state educational services under the terms stipulated by the Constitution and the law.
- **Article 39 (b) of the Cuban Constitution** stipulates that education is a State function and it is free of charge.
- **Article 74 of the Guatemalan Constitution** establishes that State education is free of charge.
- **Article 3 (IV) of the Mexican Constitution** enshrines that all education provided by the State shall be free of charge.
- **Article 102 of the Venezuelan Constitution** establishes that education as a human right and a social duty is democratic, free of charge and compulsory. While **Article 103** stipulates that all education provided by the State is free of charge until the undergraduate university level.

The following country-by-country analysis was exclusively carried out for this thesis based on the information published by each of the nineteen Latin American Governments and by their respective Treasuries and Ministries of Education. The analysis encompasses the period between 2000 and 2012, because 1) it is the most relevant period of our present and future; and 2) transparency and information published on governmental websites is limited to the most recent periods. This analysis consists of the calculated average of percentages and general aspects and tendencies of budget allocation in each of the nineteen Latin American countries based on the information archived and published by each National Government. Annexed to the end of the thesis are: 1) the links to the Treasuries of each country for each country; and 2) the links to the National Budget Laws for each country for the years cited. Up next, is a synthesis from the research conducted for each country throughout the 2000-2012 period. The acronym key used on the tables that display the budget allocation destined, usually, to the respective Ministries of Education is as follows:

**EB** = Education Budget

**TNB** = Total National Budget

**P** = Percentage

**BCG** = Budget destined to the Central Government (Bolivia's case)

**PBCG** = Percentage from the Budget destined to the Central Government (Bolivia's case)

**AP** = Average Percentage

/ = data not available

## Argentina



**Budget Destined to Education and Percentage of the Total National Budget (in Argentinean Pesos)**

<b>Year</b>	<b>EB</b>	<b>TNB</b>	<b>P</b>
2002	2.489.500.000	42.333.600.000	<b>5.88%</b>
2003	3.086.300.000	61.758.500.000	<b>5%</b>
2004	3.697.700.000	59.712.000.000	<b>6.19%</b>
2005	4.787.100.000	77.530.800.000	<b>6.17%</b>
2006	6.304.800.000	93.722.400.000	<b>6.72%</b>
2007	8.215.400.000	113.221.400.000	<b>7.25%</b>
2008	9.304.700.000	161.486.500.000	<b>5.76%</b>
2009	12.687.200.000	233.839.700.000	<b>5.42%</b>
2010	15.612.800.000	275.779.400.000	<b>5.66%</b>
2011	17.243.500.000	303.149.900.000	<b>5.68%</b>
2012	17.795.300.000	330.503.800.000	<b>5.38%</b>
<b>AP</b>			<b>5.92%</b>

From 2002 until 2007, the Argentinean Government allocated part of its National Budget to the Ministry of Education, Science and Technology (*Ministerio de Educación, Ciencia y Tecnología*). From 2008 until 2012, the budget allocation to education is given solely to the Ministry of Education (*Ministerio de Educación*). There was a separation between the Ministry of Education and that of Science, which became the “*Ministerio de Ciencia, Tecnología e*

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*Innovación Productiva*”, and which receives about 1% of the total National Budget. The Ministry of Education receives an average of 5.92% (2000-2012), and, has received a budget allocation about three-to-four times greater than when the Ministries were together and shared one budget. The lowest average percentage from the National Budget destined to education was 5% in 2003; while the highest was 7.25% in 2007. Overall, the amount destined to education exponentially increases in Argentina: from 2.489.500.000 Pesos in 2002 to 17.795.300.000 Pesos in 2012. However, even though Argentina’s National Budget has grown almost 8-fold, the percentage destined to education fluctuates between 5-6%. On average at a domestic level, the budget allocation ranking is as follows: 1<sup>st</sup> Employment; 2<sup>nd</sup> Public Services; 3<sup>rd</sup> Public Debt; 4<sup>th</sup> Treasury; 5<sup>th</sup> Education and Science; 6<sup>th</sup> Defense. At a regional level, Argentina places 16<sup>th</sup> when it comes to the average amount of the National Budget destined to education (5.92%).

## Bolivia



### Budget Destined to Education and Percentage of the Total National Budget (in Bolivian Bolivianos)

Year	EB	BCG	PBCG	TNB	P
2001	270.283.831	21.146.456.559	<b>1.27%</b>	35.128.021.009	<b>0.77%</b>
2002	312.679.791	23.879.676.863	<b>1.30%</b>	37.836.298.058	<b>0.82%</b>
2003	331.723.629	25.418.359.632	<b>1.30%</b>	40.195.038.725	<b>0.82%</b>
2004	296.233.527	27.620.748.460	<b>1.07%</b>	42.861.415.278	<b>0.69%</b>
2005	247.411.360	33.055.192.425	<b>0.74%</b>	51.256.563.867	<b>0.48%</b>
2006	262.355.326	34.478.562.169	<b>0.76%</b>	59.608.969.847	<b>0.44%</b>
2007	232.971.636	38.953.420.069	<b>0.59%</b>	77.049.592.338	<b>0.30%</b>
2008	374.135.504	43.459.802.360	<b>0.86%</b>	111.618.871.671	<b>0.33%</b>
2009	341.575.789	55.939.228.302	<b>0.61%</b>	143.195.997.927	<b>0.23%</b>
2010	3.575.461.830 (309.718.197 + 3.265.743.633)	141.579.999.280	<b>2.52%</b>	141.579.999.280	<b>2.52%</b>
2011	4.009.743.807 (227.118.659 + 3.782.625.148)	163.132.134.258	<b>2.45%</b>	163.132.134.258	<b>2.45%</b>
<b>AP</b>			<b>1.10%</b>		<b>0.89%</b>

From 2001 until 2003, the Bolivian Government allocated part of its National Budget to the *Ministerio de Educación, Cultura y Deportes*. From 2004 until 2006 the respective budget allocation was destined to the *Ministerio de Educación*. From 2007 until 2009, the allocation went to the *Ministerio de Educación y Culturas*. From 2010 until 2012, the allocation goes to the *Ministerio de Educación*.

Since 2001, the Bolivian Government has alternated its budget allocations to education four times: from the Ministry of Education, Culture and Sports, to the Ministry of Education, to then the Ministry of Education and Culture, and finally back to the Ministry of Education. As of

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2012, in Bolivia there is a separation between all these sectors by respective Ministry: the Ministry of Education (*Ministerio de Educación*); the Ministry of Health and Sports (*Ministerio de Salud y Deportes*); and the Ministry of Culture (*Ministerio de Culturas*). This could create conflicts and difficulties when it is time to execute the budget and coordinate project execution, i.e. by limiting the actual power of economic intervention within each sector. The budget is as well limited, since it has to be shared with the respective sectors. In Latin America, Bolivia is the country that destines the lowest percentage of its National Budget to the education sector. From 2003 until 2009, the percentage of the National Budget destined to Education has relatively decreased.

In 2007, the Ministry of Education and Culture received about 0.59%, the lowest percentage throughout the 2001-2012 period. In 2010, the Ministry of Education and Public Universities received 2.52% all together (0.54% and 2.30% respectively); while in 2011, 0.37% and 2.31% respectively.

In 2010 and in 2011, there was a double allocation due to the addition of a separate budget destined to Bolivia's Public Universities (*Universidades Públicas*), which received about 2% of the National Budget, and thus doubled the amount destined to education. The budget destined to the Ministry of Education comes from the budget destined to the Executive Organ (*Organo Ejecutivo*, i.e. the Executive Branch), while the budget destined to Public Universities comes from the total National Budget. The average percentage of the budget destined to education from the total National Budget in the 2001-2011 period is of 0.89%, while the average percentage destined to education from the budget destined to the Executive Branch (2001-2011) is 1.10%.

Thus, Bolivia's method of allocating the budget for education is carried out in a segmented manner, which creates ambiguity and confusion in analyzing how much of the National Budget is actually destined to education as a whole, not to mention that by merging different Ministries the budget is decreased and limited for each sector (Culture, Health and Sports, and Education). Moreover, the percentage of the budget destined to education is extremely low domestically, i.e. in terms of the percentage destined to education from the National Budget. Education holds on average 7<sup>th</sup> place in the budget allocation ranking, which is as follows: 1<sup>st</sup> Defense; 2<sup>nd</sup> Government; 3<sup>rd</sup> Health and Sports; 4<sup>th</sup> Justice; 5<sup>th</sup> Public Services; 6<sup>th</sup> Agriculture and Environment; 7<sup>th</sup> Education and Culture. Regionally, Bolivia holds the last place, i.e. in terms of the average amount that Bolivia destines to education (0.89%), in comparison to the average amount that the other Latin American countries destine to education. With the introduction of "Public Universities" to the allocation of the National Budget from 2010 on, the budget of education has almost tripled. Nevertheless, Bolivia should gradual destine about 2-3% more of its budget to the Ministry of Education in order to take steps into increase national funds to education.

## Brazil



### Budget Destined to Education and Percentage of the Total National Budget (in Brazilian Reais)

<b>Year</b>	<b>EB</b>	<b>TNB</b>	<b>P</b>
2002	17.421.387.553	650.409.607.960	<b>2.67%</b>
2003	18.037.343.186	1.036.056.083.262	<b>1.74%</b>
2004	17.303.144.820	1.469.087.406.336	<b>1.17%</b>
2005	21.022.574.093	1.606.403.171.042	<b>1.30%</b>
2006	21.671.079.236	1.660.772.285.176	<b>1.30%</b>
2007	26.401.103.572	1.511.540.601.307	<b>1.74%</b>
2008	31.714.041.624	1.362.268.012.584	<b>2.32%</b>
2009	40.524.634.534	1.581.447.761.494	<b>2.56%</b>
2010	50.903.730.817	1.766.021.794.352	<b>2.88%</b>
2011	63.707.154.459	1.966.015.896.211	<b>3.24%</b>
2012	74.280.373.427	2.257.289.322.537	<b>3.29%</b>
<b>AP</b>			<b>2.08%</b>

From 2002 until 2006, Brazil's budget amount destined to the Ministry of Education (*Ministério da Educação*) relatively decreased, while from 2007 until 2012, that amount has come to double. Throughout the period 2002-2012, an average of 2.08% of the National Budget is destined to the Ministry of Education. The lowest average percentage from the National Budget destined to education was 1.17% in 2004; while the highest was 3.29% in 2012. At a domestic level, education holds 4<sup>th</sup> place on average when it comes to the budget allocation ranking: 1<sup>st</sup> Social Prevention; 2<sup>nd</sup> Health; 3<sup>rd</sup> Defense; 4<sup>th</sup> Education; 5<sup>th</sup> Treasury; 7<sup>th</sup> Employment. However, Brazil holds 18<sup>th</sup> place when it comes to the average percentage amount of the National Budget that is destined to education at a regional level. Brazil's National Budget has overall increased throughout the years, just as well as has the amount of the budget destined to education. However, the latter one should be incremented if Brazil was to be compared to other Latin American countries that destine more of their budgets to education.

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**Chile**



**Budget Destined to Education and Percentage of the Total National Budget (in Chilean Pesos)**

<b>Year</b>	<b>EB</b>	<b>TNB</b>	<b>P</b>
2000	1.459.753.659	7.587.349.316	<b>19.24%</b>
2001	1.605.816.958	8.231.283.618	<b>19.50%</b>
2002	1.876.505.478	8.781.003.000	<b>21.37%</b>
2003	1.954.656.137	9.418.872.966	<b>20.75%</b>
2004	2.080.468.975	9.783.896.517	<b>21.26%</b>
2005	2.216.625.360	10.632.900.212	<b>20.84%</b>
2006	2.433.098.762	12.387.127.390	<b>19.64%</b>
2007	2.788.465.386	14.929.797.513	<b>18.67%</b>
2008	3.507.175.109	17.636.961.816	<b>19.88%</b>
2009	4.026.794.887	19.734.024.079	<b>20.40%</b>
2010	4.616.289.388	21.698.680.900	<b>21.27%</b>
2011	5.249.271.505	24.613.854.515	<b>21.32%</b>
2012	5.827.839.895	26.306.252.309	<b>22.15%</b>
<b>AP</b>			<b>20.48%</b>

From 2000 until 2012, the average percentage of the National Budget that is destined to education has more or less been stable at a 20.48%. The respective budget has always been destined to the Ministry of Education (*Ministerio de Educación*). The lowest average percentage from the National Budget destined to education was 18.67% in 2007; while the highest was 22.15% in 2012. At a domestic level, education holds 2<sup>nd</sup> place on average when it comes to the budget allocation ranking: 1<sup>st</sup> Social Prevention; 2<sup>nd</sup> Education; 3<sup>rd</sup> Defense; 4<sup>th</sup> Health; 5<sup>th</sup> Public Services. At a regional level, Chile holds 4<sup>th</sup> place when it comes to the average amount of the National Budget destined to education (20.48%).

## Colombia



**Budget Destined to Education and Percentage of the Total National Budget (in Colombian Pesos)**

Year	EB	TNB	P
2000	4.451.751.769.299	50.594.000.000.000	<b>8.79%</b>
2001	6.575.838.596.949	62.752.000.000.000	<b>10.47%</b>
2002	8.015.839.067.409	62.910.550.238.075	<b>12.74%</b>
2003	9.428.157.812.723	65.693.839.734.406	<b>14.35%</b>
2004	10.798.766.015.405	76.647.602.221.850	<b>14.08%</b>
2005	12.136.949.949.392	91.582.373.460.891	<b>13.25%</b>
2006	13.119.707.042.444	105.392.604.884.111	<b>12.44%</b>
2007	14.211.589.759.108	116.431.233.513.201	<b>12.20%</b>
2008	15.975.655.282.863	125.715.234.306.174	<b>12.70%</b>
2009	18.557.094.084.708	140.494.646.516.466	<b>13.20%</b>
2010	20.534.724.694.129	148.292.622.987.234	<b>13.84%</b>
2011	20.946.908.284.249	147.255.252.549.186	<b>14.22%</b>
2012	22.997.798.432.087	165.276.318.002.513	<b>13.91%</b>
<b>AP</b>			<b>12.78%</b>

From 2000 until 2012, the average percentage amount of Colombia's National Budget destined to education has linearly increased at a more or less stable rate. The respective amount has always been destined to the Ministry of National Education (*Ministerio de Educación Nacional*). The amount destined to the Ministry of National Education from the National Budget was lowest in 2000, with an average of 8.79%. The highest was in 2003, with an average of 14.35%. As Colombia's National Budget increases, the amount destined to the Ministry of National Education increases as well. At a domestic level, Colombia gives the highest budget allocation priority to education. The budget allocation ranking is as follows: 1<sup>st</sup> Education; 2<sup>nd</sup> Defense; 3<sup>th</sup> Treasury; 4<sup>th</sup> Agriculture. At a regional level, Colombia holds 11<sup>th</sup> place when it comes to the average amount of the National Budget destined to education (12.78%).



## Costa Rica



**Budget Destined to Education and Percentage of the Total National Budget (in Costa Rican Colones)**

<b>Year</b>	<b>EB</b>	<b>TNB</b>	<b>P</b>
2003	333.932.694.197	1.814.139.285.256	<b>18.40%</b>
2004	405.346.669.000	2.150.673.447.451	<b>18.84%</b>
2005	471.229.165.817	2.309.634.759.390	<b>20.40%</b>
2006	536.314.644.485	2.770.329.268.620	<b>19.35%</b>
2007	678.608.818.000	2.935.789.424.929	<b>23.11%</b>
2008	811.805.989.000	3.472.441.196.000	<b>23.37%</b>
2009	1.116.042.000.000	4.128.342.254.121	<b>27.03%</b>
2010	1.266.077.000.000	4.719.572.761.279	<b>26.82%</b>
2011	1.446.533.000.000	5.485.273.000.000	<b>26.37%</b>
2012	1.584.779.000.000	5.995.441.000.000	<b>26.43%</b>
<b>AP</b>			<b>23.01%</b>

Since 2003 until 2012, the amount destined to the Costa Rican Ministry of Public Education (*Ministerio de Educación Pública*) has been steadily increasing at a quick pace. The lowest average percentage from the National Budget destined to education was 18.40% in 2003; while the highest was 26.82% in 2010. For 2012, it is estimated to be 26.43%. At a domestic level, Costa Rica gives the highest budget allocation priority to education. The budget allocation ranking is as follows: 1<sup>st</sup> Education; 2<sup>nd</sup> Pensions; 3<sup>rd</sup> Public Services; 4<sup>th</sup> Public Security; 5<sup>th</sup> Treasury. It is interesting to note that Costa Rica does not have a Ministry of Defense; it does not have an army, but rather a security and police network classified as Public Services and Social Security. At a regional level, Costa Rica places 2<sup>nd</sup> when it comes to the average amount of the National Budget destined to education (23.01%).

## Cuba



### Budget Destined to Education and Percentage of the Total National Budget (in Cuban Pesos)

Year	EB	TNB	P
2000	/	12.570.000.000	/
2001	/	13.429.000.000	/
2002	/	14.981.000.000	/
2003	/	18.300.000.000	/
2004	/	20.661.000.000	/
2005	/	22.704.000.000	/
2006	5.310.000.000	33.329.300.000	<b>15.93%</b>
2007	7.079.000.000	40.651.500.000	<b>17.41%</b>
2008	7.711.000.000	46.255.600.000	<b>16.67%</b>
2009	9.030.000.000	46.611.200.000	<b>19.37%</b>
2010	9.624.200.000	46.044.900.000	<b>20.90%</b>
2011	9.527.800.000	45.026.300.000	<b>21.16%</b>
<b>AP</b>			<b>18.57%</b>

The National Office of Statistics (*La Oficina Nacional de Estadísticas*) documented Cuba's budget allocation by sector starting in 2006. From 2000 until 2005, Cuba published its annual National Budget Law, however, not indicating how much of the budget would be destined to each sector of the Nation. The average of the budget amount that was destined to the Education Sector (*Sectorial de Educación*) from 2006 until 2011 is of 18.57%. The lowest amount of the budget destined to education was in 2006 (15.93%), while the highest amount came in 2011 (21.16%). The amount of Cuba's National Budget destined to education increases at a steady pace. At a domestic level, Cuba gives the highest budget allocation priority to education. On average, the budget allocation ranking is as follows: 1<sup>st</sup> Education; 2<sup>nd</sup> Businesses; 3<sup>rd</sup> Public Health; 4<sup>th</sup> Social Security; 5<sup>th</sup> Defense; 6<sup>th</sup> Treasury. As Cuba's National Budget slightly increases, the amount destined to education increases more than proportionally. At a regional level, Cuba places 5<sup>th</sup> when it comes to the average amount of the National Budget destined to education (18.57%).

### Dominican Republic



**Budget Destined to Education and Percentage of the Total National Budget (in Dominican Pesos)**

Year	EB	TNB	P
2000	7.747.956.840	50.366.389.715	<b>15.38%</b>
2001	9.167.775.660	65.177.000.000	<b>14.06%</b>
2002	10.336.976.600 (9.207.729.395 + 1.129.247.245)	73.961.638.545	<b>13.97%</b>
2003	11.303.999.902 (10.091.840.334 + 1.212.159.568)	82.999.715.488	<b>13.61%</b>
2004	13.437.543.516 (11.868.879.918 + 1.568.663.608)	121.097.477.878	<b>11.09%</b>
2005	19.174.315.124 (17.091.352.863 + 2.082.962.261)	160.152.043.294	<b>11.97%</b>
2006	21.402.450.863 (18.657.731.552 + 2.744.719.311)	194.185.648.194	<b>11.02%</b>
2007	26.433.694.721 (22.920.063.280 + 3.513.631.441)	219.401.734.989	<b>12.04%</b>
2008	30.745.573.685 (26.789.622.459 + 3.955.951.226)	300.889.210.552	<b>10.21%</b>
2009	38.526.374.387 (33.359.089.275 + 5.167.285.112)	328.999.387.390	<b>11.71%</b>
2010	43.162.109.317 (37.428.725.119 + 5.733.384.198)	378.997.503.959	<b>11.38%</b>
2011	47.916.988.948 (41.535.612.509 + 6.381.376.439)	390.475.775.514	<b>12.27%</b>
2012	66.379.960.640 (58.590.422.572 + 7.789.538.068)	351.738.868.215	<b>18.87%</b>
<b>AP</b>			<b>12.89%</b>

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From 2000 until 2012, the percentage of Dominican Republic's National Budget destined to education has decreased (2000-2008) and increased (2009-2012). The budget reached its highest thus far (18.87%) in 2012, and reached the lowest in 2008 (10.21%). From 2009 until 2012, the percentage has slightly increased. In 2000, the amount was destined to the State Secretariat of Education and Culture (*Secretería de Estado de Educación y Cultura*). In 2002, the amount was destined to the, now solo, State Secretariat of Education (*Secretería de Estado de Educación*). From 2002 until 2010, the amount was destined to the State Secretariat of Education (*Secretería de Estado de Educación*), as well as to the new State Secretariat of Higher Education, Science and Technology (*Secretería de Estado de Educación Superior, Ciencia y Tecnología*). This is a separate Secretariat from that of Education, thus there was a double budget allocation. In 2011, the Secretariat of Education changed its name to Ministry of Education (*Ministerio de Educación*).

In addition, from 2000 until 2012, part of the National Budget is being destined to the State Secretariat of Higher Education, Science and Technology. The Dominican Republic should merge these two, now called Ministries, in order to have a more effective coordination in the field of education. Overall, the Dominican Republic no longer has "Secretariats", but rather "Ministries".

On average at a domestic level, the budget allocation ranking is as follows: 1<sup>st</sup> Health; 2<sup>nd</sup> Education; 3<sup>rd</sup> Security and Defense; 4<sup>th</sup> the Presidency; 5<sup>th</sup> Public Services; 6<sup>th</sup> the Treasury. At a regional level, Dominican Republic places 10<sup>th</sup> when it comes to the average amount of the National Budget destined to education (12.89%).

## Ecuador



**Budget Destined to Education and Percentage of the Total National Budget (in US Dollars)**

<b>Year</b>	<b>EB</b>	<b>TNB</b>	<b>P</b>
2003	781.553.893,05	9.473.384.604,72	<b>8.24%</b>
2004	853.432.406,66	10.016.972.150,08	<b>8.51%</b>
2005	950.502.942,86	10.606.666.342,14	<b>8.96%</b>
2006	1.096.556.808,30	12.328.611.901,09	<b>8.89%</b>
2007	1.346.782.365,66	14.326.313.081,71	<b>9.40%</b>
2008	1.846.900.000	17.236.700.000	<b>10.71%</b>
2009	2.932.402.438,65	19.167.809.881,88	<b>15.29%</b>
2010	3.215.557.628,33	21.282.062.278,62	<b>15.10%</b>
2011	3.640.115.096,34	23.950.249.957,03	<b>15.19%</b>
<b>AP</b>			<b>11.14%</b>

From 2003 until 2011, Ecuador has destined an average percentage of 11.14% from its National Budget to the Education Sector (*Sector de Educación*). The lowest average percentage from the National Budget destined to education was 8.24% in 2003; while the highest was 15.29% in 2009. The annual budget allocation grows at a quick and steady pace. From 2003 until 2011, Ecuador's National Budget has almost tripled, and, the allocation destined to education has more than doubled. On average at a domestic level, Ecuador's budget allocation ranking is as follows: 1<sup>st</sup> the Central Government; 2<sup>nd</sup> Education; 3<sup>rd</sup> Natural Resources; 4<sup>th</sup> Telecommunications; 5<sup>th</sup> Interior Affairs; 6<sup>th</sup> Defense; 7<sup>th</sup> Health. At a regional level, Ecuador places 12<sup>th</sup> when it comes to the average amount of the National Budget destined to education (11.14%).

## El Salvador



### Budget Destined to Education and Percentage of the Total National Budget (in US Dollars)

Year	EB	TNB	P
2002	471.158.125	2.504.141.730	<b>18.81%</b>
2003	484.485.705	2.486.689.589	<b>19.48%</b>
2004	470.497.790	2.793.937.360	<b>16.83%</b>
2005	483.439.225	2.992.046.255	<b>16.15%</b>
2006	510.749.250	3.337.959.885	<b>15.30%</b>
2007	526.654.245	2.943.997.970	<b>17.88%</b>
2008	635.003.400	3.342.734.350	<b>19%</b>
2009	702.874.705	3.627.837.300	<b>19.37%</b>
2010	671.450.625	3.654.316.190	<b>18.37%</b>
2011	706.989.165	4.503.497.860	<b>15.69%</b>
2012	827.710.740	4.203.365.385	<b>19.69%</b>
<b>AP</b>			<b>17.87%</b>

From 2002 until 2012, El Salvador has destined an average percentage of 17.87% from its National Budget to the Education Sector (*Ramo de Educación*). However, the education budget allocation has not been constant. It decreased from 19.48% in 2003 to 15.30% in 2006 (the lowest of the entire period), to then increase again reaching 19.37% in 2009. After 2009, the percentage began to decrease once again reaching 15.69% in 2011. The highest percentage was 19.69% in 2012. El Salvador should thus maintain the budget allocation destined to education constant, if not at a growing rate. On average at a domestic level, the National Budget allocation ranking is as follows: 1<sup>st</sup> Health; 2<sup>nd</sup> Employment and Social Prevention; 3<sup>rd</sup> Education; 4<sup>th</sup> Justice; 5<sup>th</sup> Defense. At a regional level, El Salvador places 6<sup>th</sup> when it comes to the average amount of the National Budget destined to education (17.87%).

## Guatemala



**Budget Destined to Education and Percentage of the Total National Budget  
(in Guatemalan Quetzales)**

<b>Year</b>	<b>EB</b>	<b>TNB</b>	<b>P</b>
2000	2.678.502.849	22.310.380.563	<b>12%</b>
2001	2.795.297.081	22.780.738.109	<b>12.27%</b>
2002	2.881.214.963	23.938.748.762	<b>12.03%</b>
2003	3.255.482.637	29.688.644.060	<b>10.96%</b>
2004	3.725.166.772	33.020.913.580	<b>11.28%</b>
2005	4.612.355.455	32.385.158.029	<b>14.24%</b>
2006	5.217.410.830	37.703.952.843	<b>13.83%</b>
2007	6.000.018.468	39.491.170.967	<b>15.19%</b>
2008	6.500.046.382	42.535.455.246	<b>15.28%</b>
2009	7.588.227.232	49.723.107.632	<b>15.26%</b>
2010	8.752.142.367	47.867.427.191	<b>18.28%</b>
2011	9.323.167.893	54.390.896.574	<b>17.14%</b>
2012	11.097.690.190	59.547.384.408	<b>18.63%</b>
<b>AP</b>			<b>14.33%</b>

From 2002 until 2012, Guatemala has destined an average percentage of 14.33% from its National Budget to the Ministry of Education (*Ministerio de Educación*). The lowest average percentage from the National Budget destined to education was 12% in 2000; while the highest is 18.63% scheduled for 2012. Overall, budget allocation for education has been more or less stable, and is increasing at a linear pace. On average at a domestic level, Guatemala gives the highest budget allocation priority to education. Overall, the budget allocation ranking is as follows: 1<sup>st</sup> Education; 2<sup>nd</sup> Communication and Infrastructure; 3<sup>rd</sup> Health; 4<sup>th</sup> Government; 5<sup>th</sup> Defense; 6<sup>th</sup> Agriculture. At a regional level, Guatemala places 8<sup>th</sup> when it comes to the average amount of the National Budget destined to education (14.33%).

## Honduras



### Budget Destined to Education and Percentage of the Total National Budget (in Honduran Lempiras)

Year	EB	TNB	P
2001	5.860.700.775,49	26.168.256.080,90	<b>22.39%</b>
2002	6.601.874.385,26	26.907.113.602,51	<b>24.53%</b>
2003	9.100.490.632,22	37.807.582.576,24	<b>24.07%</b>
2004	10.050.198.346,03	36.032.444.517,63	<b>27.89%</b>
2005	12.426.358.678,88	46.260.392.432,42	<b>26.86%</b>
2006	13.749.416.252,06	47.494.154.961,58	<b>28.94%</b>
2007	16.795.445.846,26	55.070.217.749,13	<b>30.49%</b>
2008	18.914.544.871,42	68.240.831.074,60	<b>27.71%</b>
2009	22.005.218.222,20	76.305.306.119,40	<b>28.83%</b>
2010	22.028.545.251	68.230.559.992	<b>32.28%</b>
2011	21.749.000.000	77.319.900.000	<b>28.12%</b>
2012	23.382.000.000	85.032.400.000	<b>27.49%</b>
<b>AP</b>			<b>27.46%</b>

From 2002 until 2012, Honduras has destined an average percentage of 27.46% from its National Budget to the Secretariat of Education (*Secretaría de Educación*). The lowest average percentage from the National Budget destined to education was 22.39% in 2001; while the highest was 32.28% in 2010. Overall, budget allocation for education has been stable and growing at a quick and linear pace. On average at a domestic level, Honduras gives the highest budget allocation priority to education. The budget allocation ranking is as follows: 1<sup>st</sup> Education; 2<sup>nd</sup> Health; 3<sup>rd</sup> Public Services; 4<sup>th</sup> Finance; 5<sup>th</sup> Security; 6<sup>th</sup> Justice; 7<sup>th</sup> Agriculture. At a regional level, Honduras places 1<sup>st</sup> when it comes to the average amount of the National Budget destined to education (27.46%).



**Mexico**



**Budget Destined to Education and Percentage of the Total National Budget (in Mexican Pesos)**

<b>Year</b>	<b>EB</b>	<b>TNB</b>	<b>P</b>
2000	83.436.200.000	1.195.313.400.000	<b>6.98%</b>
2001	97.568.578.050	1.361.866.500.000	<b>7.16%</b>
2002	110.376.540.576	1.463.334.300.000	<b>7.54%</b>
2003	106.355.088.005	1.524.845.700.000	<b>6.97%</b>
2004	113.414.103.990	1.637.055.400.000	<b>6.92%</b>
2005	332.602.088.281	1.487.947.416.581	<b>22%</b>
2006	353.020.016.669	1.607.442.416.126	<b>22%</b>
2007	149.124.300.000	1.661.021.400.000	<b>8.97%</b>
2008	168.921.300.000	1.899.925.000.000	<b>8.90%</b>
2009	200.930.600.000	2.320.352.400.000	<b>8.70%</b>
2010	211.186.159.110	2.425.552.700.000	<b>8.70%</b>
2011	230.684.550.722	2.622.527.900.000	<b>8.79%</b>
2012	251.764.600.000	2.869.583.000.000	<b>8.77%</b>
<b>AP</b>			<b>10.18%</b>

From 2000 until 2012, Mexico has destined an average percentage of 10.18% from its National Budget to Public Education (*Educación Pública*). The lowest average percentage from the National Budget destined to education was 6.92% in 2004; while the highest was 22% both in 2005 and 2006. However, the education budget allocation has not been constant. From 2000 until 2004, the average percent has fluctuated between 6-7%. Both in 2005 and 2006, the percentage amount skyrocketed to 22%, which then decreased drastically to 8.97% in 2007. From 2007 until 2012, the average percentage has remained more or less stable. On average at a domestic level, Mexico usually gives the highest budget allocation priority to education. The budget allocation ranking is as follows: 1<sup>st</sup> Education; 2<sup>nd</sup> Health; 3<sup>rd</sup> Agriculture; 4<sup>th</sup> Communications and Transportation; 5<sup>th</sup> Social Development; 6<sup>th</sup> Treasury; 7<sup>th</sup> Defense. At a regional level, Mexico places 13<sup>th</sup> when it comes to the average amount of the National Budget destined to education (10.18%).

## Nicaragua



### Budget Destined to Education and Percentage of the Total National Budget (in Nicaraguan Córdoba)

Year	EB	TNB	P
2000	1.526.448.000	12.319.843.000	<b>12.39%</b>
2001	2.149.263.622	15.824.467.662	<b>13.58%</b>
2002	1.685.947.000	16.434.650.000	<b>10.25%</b>
2003	1.859.623.669,37	19.202.062.035,04	<b>9.68%</b>
2004	2.283.053.437,56	19.562.562.398,43	<b>11.67%</b>
2005	2.664.082.323,49	22.516.276.490,42	<b>11.83%</b>
2006	3.159.880.607,36	26.131.136.888,45	<b>12.09%</b>
2007	3.865.908.393,91	29.011.462.427,64	<b>13.32%</b>
2008	4.683.217.968,28	29.705.886.020,01	<b>15.76%</b>
2009	5.264.777.879,69	31.627.058.186,52	<b>16.64%</b>
2010	5.196.863.042,90	33.220.978.918,66	<b>15.64%</b>
2011	6.300.068.700	34.946.213.464.24	<b>18.02%</b>
<b>AP</b>			<b>13.40%</b>

From 2000 until 2011, Nicaragua has destined an average percentage of 13.40% from its National Budget to the Ministry of Education, Culture and Sports (*Ministerio de Educación, Cultura y Deportes*); which from 2007 until 2012 is solely known as the Ministry of Education (*Ministerio de Educación*). The lowest average percentage from the National Budget destined to education was 9.68% in 2003; while the highest was 18.02% in 2012. On average, the budget allocation ranking is as follows: 1<sup>st</sup> Health; 2<sup>nd</sup> Education; 3<sup>rd</sup> Infrastructure and Transportation; 4<sup>th</sup> Governance; 5<sup>th</sup> Agriculture; 6<sup>th</sup> Justice; 7<sup>th</sup> Defense. At a regional level, Nicaragua places 9<sup>th</sup> when it comes to the average amount of the National Budget destined to education (13.40%).

## Panama



### Budget Destined to Education and Percentage of the Total National Budget (in Panamanian Balboas)

Year	EB	TNB	P
2000	499.495.000	5.147.142.500	<b>9.70%</b>
2001	554.016.100	5.612.668.500	<b>9.87%</b>
2002	/	/	/
2003	552.757.400	5.493.582.485	<b>10%</b>
2004	563.212.700	6.003.145.717	<b>9.38%</b>
2005	607.063.900	6.192.329.636	<b>9.80%</b>
2006	701.824.900	6.740.275.760	<b>10.41%</b>
2007	790.738.700	7.375.976.380	<b>10.72%</b>
2008	904.604.600	8.321.689.027	<b>10.87%</b>
2009	968.231.800	9.763.326.360	<b>9.91%</b>
2010	1.062.978.000	10.574.940.600	<b>10%</b>
2011	1.186.521.200	13.009.299.204	<b>9.12%</b>
2012	1.456.432.216	14.468.692.081	<b>10%</b>
<b>AP</b>			<b>9.98%</b>

From 2000 until 2012, Panama has destined an average percentage of 9.98% from its National Budget to the Ministry of Education (*Ministerio de Educación*). The lowest average percentage from the National Budget destined to education was 9.12% in 2011; while the highest was 10.87% in 2008. The annual budget allocation has been more or less constant, however, fluctuating between 9% and 10%, thus, not growing even though the National Budget has more than doubled from 2000 until 2012. Panama should allocate part of its National Budget to education at a growing and constant pace. Nevertheless, Panama gives the highest budget allocation priority to education. On average, the budget allocation ranking is as follows: 1<sup>st</sup> Education; 2<sup>nd</sup> Health; 3<sup>rd</sup> Finance; 4<sup>th</sup> Public Security; 5<sup>th</sup> Justice. At a regional level, Panama places 14<sup>th</sup> when it comes to the average amount of the National Budget destined to education (9.98%).

## Paraguay



### Budget Destined to Education and Percentage of the Total National Budget (in Paraguayan Guaranies)

Year	EB	TNB	P
2005	1.931.358.566.266	21.302.843.322.599	<b>9.06%</b>
2006	1.854.238.869.914	21.991.117.830.513	<b>8.43%</b>
2007	2.004.691.657.394	23.799.576.347.366	<b>8.42%</b>
2008	2.425.565.808.721	27.917.808.838.589	<b>8.68%</b>
2009	2.613.679.480.596	33.398.403.056.208	<b>7.82%</b>
2010	2.935.370.675.660	35.494.806.285.173	<b>8.26%</b>
2011	3.552.209.132.769	42.847.473.521.791	<b>8.29%</b>
<b>AP</b>			<b>8.42%</b>

From 2005 until 2012, Paraguay has destined an average percentage of 8.42% from its National Budget to the Ministry of Education and Culture (*Ministerio de Educación y Cultura*). After 2005 until 2009, the average percentage from Paraguay's National Budget destined to education has decreased: from 9.06% in 2005 to 7.82% in 2009. After 2009, this percentage has been slightly increasing, reaching 8.29% in 2011. This is a negative sign, since Paraguay's National Budget has actually doubled from 2005 to 2011 (from 21.302.843.322.599 Guaranies to 42.847.473.521.791 Guaranies respectively). If Paraguay's National Budget doubles, so should the percentage amount destined to education. On average at a domestic level, the National Budget allocation ranking is as follows: 1<sup>st</sup> Treasury; 2<sup>nd</sup> Education; 3<sup>rd</sup> Public Health; 4<sup>th</sup> Public Services; 5<sup>th</sup> Interior Affairs; 6<sup>th</sup> the Presidency; 7<sup>th</sup> Defense. At a regional level, Paraguay places 15<sup>th</sup> when it comes to the average amount of the National Budget destined to education (8.42%).

**Peru**



**Budget Destined to Education and Percentage of the Total National Budget (in Peruvian Nuevos Soles)**

<b>Year</b>	<b>EB</b>	<b>TNB</b>	<b>P</b>
2002	1.349.899.590	35.771.987.911	<b>3.77%</b>
2003	2.362.369.795	44.516.006.305	<b>5.30%</b>
2004	1.862.535.783	44.115.387.252	<b>4.22%</b>
2005	1.972.950.587	49.117.162.238	<b>4%</b>
2006	2.022.316.838	50.862.269.691	<b>3.97%</b>
2007	2.365.044.300	61.626.985.652	<b>3.83%</b>
2008	3.049.142.895	71.049.786.794	<b>4.29%</b>
2009	3.078.860.824	72.355.497.884	<b>4.25%</b>
2010	3.733.873.524	81.857.278.697	<b>4.56%</b>
2011	4.194.311.743	88.460.619.913	<b>4.74%</b>
2012	5.472.438.447	95.534.635.146	<b>5.72%</b>
<b>AP</b>			<b>4.42%</b>

From 2002 until 2012, Peru has destined an average of 4.42% from its National Budget to the Ministry of Education (*Ministerio de Educación*). The lowest average percentage from the National Budget destined to education was 3.77% in 2002; while the highest is 5.72% in 2012. The annual budget allocation has shown some anomalies: the percentage amount began to decrease from 5.30% in 2003 to 3.83% in 2006, to then slowly increase to 4.74% in 2011. This is a negative sign, because Peru’s National Budget has almost tripled from 2002 until 2012 (from 35.771.987.911 Nuevos Soles to 95.534.635.146 Nuevos Soles respectively). Peru should allocate part of its National Budget to education at a constant and increasing pace, since the National Budget itself increases exponentially. On average at a domestic level, the National Budget allocation ranking is as follows: 1<sup>st</sup> Treasury; 2<sup>nd</sup> Defense; 3<sup>rd</sup> Interior Affairs; 4<sup>th</sup> Education; 5<sup>th</sup> Decentralization; 6<sup>th</sup> Health; 7<sup>th</sup> Transportation and Communication. At a regional level, Peru places 17<sup>th</sup> when it comes to the average amount of the National Budget destined to education (4.42%).

## Uruguay



### Budget Destined to Education and Percentage of the Total National Budget (in Uruguayan Pesos)

Year	EB	TNB	P
2000	8.584.744.462	52.324.369.056	<b>16.40%</b>
2001	10.208.802.563	63.055.628.124	<b>16.19%</b>
2002	10.733.202.493	80.134.764.249	<b>13.39%</b>
2003	11.923.108.181	91.837.777.318	<b>12.98%</b>
2004	13.264.571.000	87.615.725.000	<b>15.13%</b>
2005	14.537.541.000	90.771.752.000	<b>16.01%</b>
2006	16.491.906.000	115.714.828.000	<b>14.25%</b>
2007	19.642.142.000	130.305.605.000	<b>15.07%</b>
2008	25.071.059.000	148.768.870.000	<b>16.85%</b>
2009	30.474.723.000	136.494.880.000	<b>22.32%</b>
2010	35.491.638.000	189.550.371.000	<b>18.72%</b>
2011	39.017.504.000	213.054.729.000	<b>18.31%</b>
2012	40.981.499.000	219.652.335.000	<b>18.65%</b>
<b>AP</b>			<b>16.48%</b>

From 2000 until 2012, Uruguay has destined an average percentage of 16.48% from its National Budget to the Ministry of Education and Culture (*Ministerio de Educación y Cultura*), the National Administration for Public Education (*Administración Nacional de Educación Pública*), the University of the Republic (*Universidad de la República*), and the National Institute of the Minor (*Instituto Nacional del Menor*). Since 2008 until 2012, the latter one is known as Uruguay's Child and Adolescent Institute (*Instituto del Niño y Adolescente del Uruguay; INAU*).

The lowest average percentage from the National Budget destined to education was 12.98% in 2003; while the highest was 22.32% in 2009. Uruguay's National Budget has grown 4-

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fold from 2000 until 2012 (from 52.324.369.056 Pesos to 219.652.335.000 Pesos respectively); however, the percentage destined to education has only increased at a linear, more or less constant, pace. Even though this percentage increases, Uruguay's investment in education should grow proportionally to its National Budget, in this case, 4-fold. Uruguay places 7<sup>th</sup> when it comes to the average amount of the National Budget destined to education at a regional level. Nevertheless, Uruguay gives the highest budget allocation priority to education. On average at a domestic level, the National Budget allocation ranking is as follows: 1<sup>st</sup> Education; 2<sup>nd</sup> Health; 3<sup>rd</sup> Interior Affairs; 4<sup>th</sup> Defense; 5<sup>th</sup> Treasury; 6<sup>th</sup> Agriculture; 7<sup>th</sup> Public Services.

## Venezuela



**Budget Destined to Education and Percentage of the Total National Budget  
(in Venezuelan Bolivares)**

<b>Year</b>	<b>EB</b>	<b>TNB</b>	<b>P</b>
2000	3.063.192.400.000	17.878.137.200.000	<b>17%</b>
2001	4.292.212.660.760	23.214.303.000.000	<b>18.48%</b>
2002	5.267.553.500.000	26.443.129.300.000	<b>19.92%</b>
2003	7.435.995.980.000	41.600.426.600.000	<b>17.87%</b>
2004	9.268.677.544.980	49.950.883.610.000	<b>18.55%</b>
2005	13.374.256.506.726	69.326.522.616.247	<b>19.29%</b>
2006	18.790.786.531.126	87.029.741.240.375	<b>21.59%</b>
2007	27.636.030.408.209	115.178.096.852.679	<b>23.99%</b>
2008	29.848.300.000	82.251.300.000	<b>36.28%</b>
2009	36.267.934.644	167.474.173.604	<b>21.65%</b>
2010	34.257.688.263	159.406.061.772	<b>21.49%</b>
2011	37.976.168.605	204.208.188.048	<b>18.59%</b>
<b>AP</b>			<b>21.22%</b>

From 2000 until 2011, Venezuela has destined an average percentage of 21.22% from its National Budget to education. From 2000 until 2002 this allocation was destined to the Ministry of Education, Culture and Sports (*Ministerio de Educación, Cultura, y Deportes*); from 2004 until 2007 to the Ministry of Education, Culture and Sports, and to the new Ministry of the People's Power for Higher Education (*Ministerio del Poder Popular para la Educación Superior*); from 2008 until 2010 to the new Ministry of the People's Power for Education (*Ministerio del Poder Popular para la Educación*), as well as to the Ministry of the People's Power for Higher Education; and in 2011 to the Ministry of the People's Power for Education, as well as to the new Ministry of the People's Power for University Education (*Ministerio del Poder Popular para la Educación Universitaria*). The lowest average percentage from the National Budget destined to education was 17% in 2000; while the highest was 36.28% in 2008. On average at a domestic level, the National Budget allocation ranking is as follows: 1<sup>st</sup> Education; 2<sup>nd</sup> Employment and Security; 3<sup>rd</sup> Health; 4<sup>th</sup> Defense; 5<sup>th</sup> Infrastructure; 6<sup>th</sup> Housing; 7<sup>th</sup> Agriculture. At a regional level, Venezuela places 3<sup>rd</sup> when it comes to the average amount of the National Budget destined to education (21.22%).



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Below, Table 2.1 shows the ranking of the nineteen Latin American countries concerning the average amount of their respective national budgets that was destined to education for the period between 2000 and 2012.

**Table 2.1. Ranking of the Financial State of Education in Latin America (2000-2012)**

<b>Country</b>	<b>Average Education Budget from National Budget (2000-2012)</b>
1. Honduras	27.46%
2. Costa Rica	23.01%
3. Venezuela	21.22%
4. Chile	20.48%
5. Cuba	18.57%
6. El Salvador	17.87%
7. Uruguay	16.48%
8. Guatemala	14.33%
9. Nicaragua	13.40%
10. Dominican Republic	12.89%
11. Colombia	12.78%
12. Ecuador	11.14%
13. Mexico	10.18%
14. Panama	9.98%
15. Paraguay	8.42%
16. Argentina	5.92%
17. Peru	4.42%
18. Brazil	2.08%
19. Bolivia	0.89%
<b>Regional Average</b>	<b>13.23%</b>

Moreover, the Gross National Product (GNP) ranking for each of the nineteen Latin American countries more or less confirms the classification above. This shows that budget allocation for education has a relation to a country's economic power, and, to how much education is prioritized at a national level. Table 2.2 below shows the GNP per capita in US dollars for 1998 and 2008 for each of the nineteen Latin American countries, which through a closer look, it can be concluded that the more economic power and capacity a country has, usually the more money can be invested in education, and thus the more education is prioritized. However, this is not always the case, for countries like Nicaragua and Honduras, which have a relatively low GNP per capita, give high priority to education and thus have invested an average

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of 13.40% and 27.46% to education from their National Budgets in the 2000-2012, respectively. Moreover, some countries with a relatively high GNP per capita (Argentina and Brazil), have allocated less to education than Nicaragua and Honduras have (5.92% and 2.08%, respectively).

**Table 2.2. Latin America's GNP per capita in US \$<sup>1</sup>**

Country	GNP per capita Current US\$	
	1998	2008
Argentina	8,020	7,200
Bolivia, P.S.	1,000	1,460
Brazil	4,880	7,350
Chile	5,270	9,400
Colombia	2,550	4,660
Costa Rica	3,500	6,060
Cuba	...*	...
Dominican Republic	1,770	4,390
Ecuador	1,810	3,640
El Salvador	1,870	3,480
Guatemala	1,670	2,680
Honduras	750	1,800
Mexico	4,020	9,980
Nicaragua	670	1,080
Panama	3,550	6,180
Paraguay	1,650	2,180
Peru	2,240	3,990
Uruguay	6,610	8,260
Venezuela, B.R.	3,360	9,230

\* ... : Data not available.

Source: The 2011 EFA Global Monitoring Report.

The budget allocation percentage for each country was obtained in order to confront all nineteen Latin American Government at a regional level to depict where education stands from a financial perspective; again, according to the respective Budget Laws of each country, and not counting extra budgetary non-State funds.

If the average percentage of these nineteen countries destined to education from 2000 until 2012 are compared with one another, a significant difference gap emerges. The spectrum of allocated budget to education ranges from the highest (27.46%, Honduras) to the lowest (0.89%,

<sup>1</sup>World Bank, 2010.

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Bolivia), while the regional average is 13.23%. This means that in the Latin American region budget allocation to education is not coordinated and widely differs from country to country. This gap depicts the significant difference of economic power in the Latin American region. Education is nevertheless within the top five priority sectors for budget allocation in the region.

This research found obstacles in the limited transparency of the Treasuries, since they not publish the Annual Budget Laws for years before 1999 or 2000. An overall limit to the accuracy of this analysis was that not all countries published their Budget Laws for all years between 2000 and 2012. The research becomes especially difficult when the information regarding the budget allocation to education is not published on the same page, or on the same law or publication as the total National Budget.

Furthermore, a general limit that affects the accuracy of this analysis is that the total national budget and the amount destined to education that were approved by law may not correspond to the respective amounts that are actually used up. A possible solution to this would be for Ministries of Education to publish all of their annual budgets allocated to them from the total National Budget for each respective year as well as the used-up budget.

Up next, the six chosen countries (Bolivia, Colombia, Cuba, Guatemala, Mexico, and Venezuela) will be analyzed at a legislative level, i.e. how their respective Laws of Education, and other norms and regulations, comply with the minimum standards set by the UNESCO Convention against Discrimination in Education of 1960.

### **Chapter 3: The Plurinational State of Bolivia**



The State that this chapter analyzes is the Plurinational State of Bolivia (*Estado Plurinacional de Bolivia*). Since Bolivia is one of the six Latin American countries that has not yet ratified the CDE, it does not have the direct legally-binding responsibility to implement the CDE, i.e. to guarantee the right to education at country level, especially for national minorities who are those that tend to be excluded from the enjoyment of human rights under the CDE. However, this does not imply that the Government of Bolivia has not carried out legislative initiatives with the aims of protecting, expanding, and fulfilling the right to education at home. This does not imply either that Bolivia has not ratified any other international or regional normative instruments that sanction the right to education. In fact, Bolivia has become State Party to other legally-binding international normative instruments that enshrine the right to education within their legal framework. Below is a list of such instruments along with the date on which Bolivia ratified each respective instrument:

- The International Convention on the Elimination of All Forms of Racial Discrimination of 1965 (ratification: 22/09/1970)
- The International Covenant on Economic, Social and Cultural Rights of 1966 (ratification: 12/08/1982)
- The American Convention on Human Rights “Pact of San Jose, Costa Rica” of 1969 (ratification: 06/20/1979)
- The Convention on the Elimination of Discrimination against Women of 1979 (ratification: 08/06/1990)
- The Indigenous and Tribal Peoples Convention of 1989 (ratification: 11/12/1991)
- The Convention on the Rights of the Child of 1989 (ratification: 26/06/1990)

This chapter will thus analyze, under a comparative perspective, the elements of the principal national legislative instrument that the Bolivian Government has adopted to implement the duties to protect the right to education at country level. Bolivia's educational legislative instrument under analysis is the Avelino Siñani-Elizardo Pérez Education Law No. 70 of 2010<sup>1</sup> (*Ley de la Educación Avelino Siñani-Elizardo Pérez No. 70*) (hereinafter: the Law), which abrogated Law No. 1565 on the Educational Reform of July 7<sup>th</sup>, 1994 as well as Law No. 3009 of the National Council of Higher Education Accreditation. The comparison between the CDE and Bolivia's Law No. 70 may serve to encourage the Plurinational State of Bolivia to ratify the CDE.

### **The Right to Education and its Principles (Preamble and Articles 3-5 of the CDE)**

The Plurinational State of Bolivia upholds the right to education as a fundamental right. Law No. 70 recognizes that every individual has the right to receive an education at all levels in a universal, productive, free of charge, integral, and intercultural manner, without discrimination (Article 1.1). This first article should serve as the basis for the implementation of practices that abide by the duties set by Article 4 of the CDE.

### **Non-Discrimination (Articles 1-3 of the CDE)**

Bolivia indeed upholds the right to education as a fundamental right for all, without discrimination, based upon the principles of inter-culturality and intra-culturality. These principles are pillars to Bolivia's multinational identity, thus encompassing to its core the principle of non-discrimination, since the Plurinational State promotes, protects, and includes all of the different groups and peoples within its territorial sovereignty. Law No. 70 establishes Bolivia's blueprint and objectives for education in general; however, it has the specific aim to regulate the Bolivian education system with the founding principle of "plurinationality". This principal, of the "Plurinational" State of Bolivia, is a pillar that aims to develop an education system upon the respect of diverse social and cultural expressions within the State. This principle excludes any practice of discrimination, since its purpose is to include "all" without any discrimination within the Bolivian education system; a principle that exists to recognize, include, and respect minority and indigenous groups within a society made up of different ethno-cultural realities.

The Bolivian education system has the principle of "unity in diversity" (Article 3.2) as foundation. One of the main objectives of the Bolivian education system is thus to promote State unity by respecting diversity through the principles of equity and equality of opportunities and conditions for all (Article 5.4). The Law goes further in specifying that the education system aims to cultivate a diversity-based identity and consciousness for women

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<sup>1</sup> The Avelino Siñani-Elizardo Pérez Education Law No. 70 of 2010:  
<http://www.minedu.gob.bo/documentacion/descargas.php?d=L070.pdf>

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and men (Article 5.7); a diversity that is encountered at a territorial, economic, social and cultural level within the Plurinational State. In fact, Law No. 70 establishes for the enactment of social policies that aim to strengthen scientific, cultural, and linguistic diversity at a university level in order to train professionals that will contribute to the development of the Plurinational State (Article 53).

The Bolivian education system is based on the principle of inclusiveness; thus recognizing the diversity between different groups, communities and peoples that live within the territory of Bolivia and providing everyone with equal opportunities without discrimination (Article 3.7). The principle of non-discrimination is further protected by Article 14 of the new Political Constitution of the Plurinational State of Bolivia, which declares that the State prohibits and shall sanction any form of discrimination practice that has the aims to annul or impede an individual the recognition, enjoyment or exercise of any of her or his human rights. Other than recognizing the principle of non-discrimination as established by the CDE, Bolivia recognizes the principle of access for all with Article 3.7 of Law No.70 and Article 14 of the Constitution, since education in Bolivia is inclusive, and goes even further in recognizing the plurinationality of the different groups, communities and peoples that make up the totality of the State. This establishes a base for the Bolivian education system to provide equality of opportunity and access for all.

### **Primary and Secondary Education (Article 4 of the CDE)**

Article 81 of the Bolivian Constitution establishes that education is compulsory until the upper secondary level (i.e. high school), and it is free of charge until the higher education level. Article 82 stipulates that the State will guarantee access to education and retention of all its citizens under the condition and principle of equality. These Constitutional provisions are translated in Article 1.8 and 1.9 of Law No. 70.

### **Higher Education (Article 4 of the CDE)**

At a Constitutional level, higher education encompasses universities, teacher training colleges, and technical, technological, artistic, fiscal and private institutes (Article 91.3). Article 92 enshrines university autonomy, while Article 93 establishes that public universities are to be duly and sufficiently subsidized by the State. This latter article also stipulates that the State, in coordination with public universities, is to promote the creation and functioning of multicultural universities and communal institutes in rural areas in order to guarantee and strengthen social participation and regional production. Article 94 stipulates that private universities shall be governed by the policies, plans, programs and authorities of the education system, and, that their functioning shall be authorized by supreme decree after meeting the requirements established by the law. Moreover, Article 95 bestows to the universities the duty

to create intercultural training centers – in accordance with the principles and objectives of the education system – that shall be of free access to the Bolivian *pueblo*<sup>2</sup>.

The public universities established by the Constitution are sanctioned by Article 56 of Law No. 70, which states that Public Autonomous Universities are governed by what is established on the Constitution. Law No. 70, unlike the Constitution, establishes Indigenous Universities (Article 60), which are public, scientific and academic institutions articulated according to the territoriality and organization of indigenous peoples and nations. These institutes provide professional training and research at a scientific, technological, innovative, undergraduate and graduate level. They also develop programs for the recovery and strengthening of aboriginal knowledge and languages.

### **Quality of Education (Article 4 of the CDE)**

For the CDE, the “term ‘education’ refers to all types and levels of education, and includes access to education, the standard and quality of education, and the conditions under which it is given” (Article 1.2). The CDE further establishes that “the conditions relating to the quality of the education provided are also equivalent” whether the school is private, public, or for minority groups. Quality of education is thus a guiding and constant principle within any education system of any state that aims to defeat all types of discrimination.

Article 89 of the Bolivian Constitution delegates unto a public, technical and specialized institution, the duty to follow-up, measure, evaluate and certify the quality of education within the entire Bolivian education system, whose functioning and structure shall be determined by law.

In consideration of the quality principle, Law No. 70 established that the education provided by the Bolivian system shall be unifying, universal, democratic, participatory, communitarian, decolonizing, and qualitative (Article 1.5). Education in the Plurinational State of Bolivia aims to guarantee quality of the education provided through the entire Plurinational Education System of the State, as established by Law No. 70 (Article 5.18). The Law further suggests for the creation of international indicators and parameters able to assess the quality of education that specifically responds to the socio-cultural and linguistic diversity of the State.

The pertinence of a quality education for Bolivia is high, for research in the Plurinational State of Bolivia and in Chile traced a large proportion of differences in learning achievement between indigenous and non-indigenous students to the quality and characteristics of the schools. In both countries, the difference gap ranges between 0.3 and 0.5, favoring non-indigenous students. Between 50% and 70% of the difference is attributable to differences in schools and classrooms that are attended by indigenous and non-indigenous students; 20%-40% to varying family variables like parental education; 10%-20% is unexplained. (McEwan, 2004, pp. 435-452). These studies suggest that social disadvantage in school intakes are strongly linked to lower levels of school performance (UNESCO, GMR

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<sup>2</sup> A “pueblo” is understood as a people, i.e. a group of people that are considered to be one due to various elements that bind them together as a community.

2011, p.90). Thus, schools that implement a good quality education can contribute to the eradication of social inequalities.

### **Continuing Education (Article 4 of the CDE)**

Bolivia's education system has set as goal to guarantee access to and the continuation of education for all the Bolivian people based on equality and equity of conditions (Article 5.10), as well as, to democratize such access and continuation, especially for individuals that are fifteen years old or older who must begin or continue their studies (Article 17.1). In promotion of equality of opportunity and of treatment in the matter of education, State Parties to the CDE undertake the responsibility to formulate and apply national policies that "encourage and intensify by appropriate methods the education of persons who have not received any primary education or who have not completed the entire primary education course", as established by Article 4(c). To that extent, Article 17.1 of Law No. 70, as seen above, applies this principle of continuation in education and equal opportunity and access to education for this specific group of individuals.

Furthermore, Bolivia's Alternative and Special Education Sub-system is specialized in providing for the educational requirements and expectations of people, families, communities and organizations that need to continue their studies or lifelong permanent training (Article 16i). The Alternative Education Sub-system is responsible for the execution of actions – which are to be just as relevant and qualitative as those executed by the Regular Education System – destined to young people and adults that need to continue their studies in accordance with their life requirements and expectations, as well as with their social environment (Article 21i).

Not only does Law No. 70 establish that the Bolivian Education System guarantees the implementation of literacy and post-literacy policies and programs to facilitate young people and adults to continue their education by safeguarding the intra-cultural, inter-cultural and multilingual character of the State (Article 5.17), but Bolivia serves as a concrete example of how the principle of access to and the continuation of education for all is executed by combating illiteracy, since it is associated with extreme poverty, marginalization, and cultural discrimination as a result of historical processes. Article 84 of the Bolivian Constitution stipulates that both the State and society have the duty to eradicate illiteracy through programs that are sensible to the cultural and linguistic reality of the Bolivian population.

To that extent, on April 13<sup>th</sup>, 2006, the Supreme Decree No. 28675 established Bolivia's National Literacy Program as a national priority and State policy. Bolivia thus engaged in the "Yo, Sí Puedo" (Yes, I Can) literacy and post-literacy program launched by the ALBA<sup>3</sup>-TCP countries based on the educational method developed by Cuba. The program has

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<sup>3</sup> ALBA-TCP stands for *Alianza Bolivariana para los Pueblos de Nuestra América – Tratado de Comercio de los Pueblos*. ALBA is the strategic political alliance that serves as a forum for governments in the Latin American and Caribbean region to gather, discuss, and provide solution to the region's pressing challenges. ALBA's Member States are: Venezuela, Cuba, Bolivia, Nicaragua, Dominica, Ecuador, Saint Vincent and the Grenadines, and Antigua and Barbados. For more information, please consult ALBA's official website: <http://www.alianzabolivariana.org/index.php>.



helped reduce illiteracy rates to between 1-2% overall, with the exception of Nicaragua (13-22%), in four of the ALBA-TCP countries (UIS, 2012): Venezuela (2005), Bolivia (2008), Nicaragua (2009) and Ecuador (2009). Bolivia declared itself free of illiteracy in the city of Cochabamba, on December 20<sup>th</sup>, 2008, “after a 33-month campaign... [that] covered 819,417 people, 24,699 of whom became literate in the Aymara language and 13,599 in the Quechua language” (Torres, 2009, p.27). The declaration was accompanied by the announcement of the “*Yo, Sí Puedo Seguir*” follow-up program, starting in early 2009 and offering completion of primary education in two to three years. Thanks to the *Yo, Sí Puedo* and the *Yo, Sí Puedo Seguir* method more than 3,500,000 people can read and write in these Latin American countries as of 2012. The *Yo, Sí Puedo Seguir* program guarantees the continuation of education for these people, young and old, that were not able to finish their regular education career or continue the practice of reading their own language.

### **Teacher Training (Article 4 of the CDE)**

Concerning teacher training, the CDE further establishes that “The States Parties to this Convention undertake furthermore to formulate, develop and apply a national policy... To provide training for the teaching profession without discrimination” (Article 4d). This measure is aimed at maintaining, strengthening, and improving the standards, quality, and updated-relevance of an education system.

Article 96 of the Bolivian Constitution bestows the State the duty of providing teacher training for public school teachers, which is to be carried out by the respective training colleges. Teacher training is unique, free of charge, intercultural, multilingual, scientific, productive, and vocational. Public school teachers have the duty to participate in the continuous process of teacher training.

On that note, Law No. 70 sanctions the duty to implement educational policies aimed at the continuation and actualization of teacher-training for the entire Education System of the Plurinational State of Bolivia (Article 13). Moreover, Chapter III of Law No. 70 entitled Higher Education Sub-system for Professional Training (*Subsistema de educación superior de formación profesional*) and Section I, entitled English translation: Higher Education for Teachers (*Formación superior de maestras y maestros*), contain thirteen articles (Articles 28-40) that regulate the education and training of teachers in the Bolivian Education System. The “*Formación Superior de Maestras y Maestros*” is the special process aimed at the continuation of training and updating teachers (Article 30) in order to create critical, reflective, self-critical, purposeful, innovative researchers and professionals that are willing to compromise with democracy, social transformations, along with the principle of inclusion for all in the Plurinational State of Bolivia (Article 33).

Even though these articles pertaining to the continuation of teacher-training do not specify the “non-discrimination principle” that the CDE does, it instead declares the continuation of teacher-training as a right and duty of all teachers in order to update, capacitate, and improve their own quality and educational environment, and thus, that of the State’s (Article 40). Teacher-training as a right, and duty, serves as a pillar in the maintenance of a quality education in Bolivia.

## **Human Development (Article 5 of the CDE)**

According to Law No. 70, education in Bolivia is oriented to individual and collective training, without discrimination, by developing an individual's physical, intellectual, affective, cultural, artistic, sporty, creative, and innovative potentials and capacities in order to give vocational service to society and to the Plurinational State (Article 5.1). This article is thus in harmony with the disposition of Article 5 of the CDE that states that "education shall be directed to the full development of the human personality..." Article 5.1 of Law No. 70 goes beyond in giving specific characteristics to the ambiguous concept of "human personality", and gives equal opportunity for all to develop their own human potential and capacities. The Plurinational State further guarantees a democratic access to knowledge for the development of a critical and reflexive sense (Article 29.3).

Article 5.1 of the CDE states that education "shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace". One of the objectives the education system in Bolivia and the principles of inter-culturality and intra-culturality shall attain, as established by Law No. 70, is the cultivation and strengthening of public spirit, inter-cultural dialogue, as well as ethical, moral, and aesthetical values based on community life and the respect of individual and collective fundamental rights (Article 5.8), not to mention the development of an integral and balanced community consciousness that favors harmonious coexistence between Mother Nature and cultural diversity (Article 5.9). These dispositions are derived from the firm belief and recognition of tolerance and peace as founding principles of understanding and respecting differences.

## **Religious Education and Rights of Parents (Article 5 of the CDE)**

In regards to the rights of parents, Law No. 70 enshrines the right of parents to choose their children's education as they retain fit (Article 2V). This is in harmony, though less articulated, with Article 5.1v of the CDE, which thoroughly details this right as follows:

*"It is essential to respect the liberty of parents and, where applicable, of legal guardians, firstly to choose for their children institutions other than those maintained by the public authorities but conforming to such minimum educational standards as may be laid down or approved by the competent authorities and, secondly, to ensure in a manner consistent with the procedures followed in the State for the application of its legislation, the religious and moral education of the children in conformity with their own convictions; and no person or group of persons should be compelled to receive religious instruction inconsistent with his or their convictions".*

The CDE not only gives parents the right to choose their children's education as they see fit, but it establishes two specific dispositions: 1) the education must conform to the standards laid down by the State; and 2) parents have the right to choose the "religious" and "moral" education for their children according to their religious and moral convictions. The

first disposition specifies that the State is the sole decision maker with the power to choose the type of education system (secular or not) that is to be implemented for its citizens on its territory. The second disposition specifies that no one should be imposed a religious or moral education that is not consistent with their own convictions. This disposition shall be interpreted under the light of Article 18 of the 1948 Universal Declaration of Human Rights: “Everyone has the right to freedom of thought, conscience and religion [...]”

On this note, Article 86 of the Bolivian Constitution stipulates that freedom of conscience and faith, as well as the freedom to teach religion and the spirituality of the indigenous peoples, is guaranteed in educational centers. This same article provides that in these centers, there shall be no religious-based discrimination in the admission of students. Moreover, Law No. 70 establishes that the Bolivian education system is secular, pluralist and spiritual; however, it recognizes and guarantees freedom of conscience, faith and the teaching of religion (e.g. the spirituality of the different indigenous communities) with the aims of promoting respect and mutual coexistence among peoples with different religions; goal which is to be reached not through dogmatic imposition, but through inter-religious dialogue (Article 3.6). Here, Law No. 70 goes beyond the CDE, for it does not only recognize the freedom of religion, but promotes inter-religious dialogue among different peoples with different religious and moral convictions. This principle has root in the pillars of the Plurinational State of Bolivia: inter-culturality and intra-culturality. Moreover, Article 88.2 of the Constitution bestows parents the right to choose the education they best see fit for their children.

### **Minority Rights (Article 5 of the CDE)**

Article 5(c) of the CDE states that:

*“It is essential to recognize **the right of members of national minorities** to carry on their own educational activities, including the maintenance of schools and, depending on the educational policy of each State, the use or the teaching of their own language, provided however: (i) That this right is not exercised in a manner which prevents the members of these minorities from understanding the culture and language of the community as a whole and from participating in its activities, or which prejudices national sovereignty; (ii) That the standard of education is not lower than the general standard laid down or approved by the competent authorities; and (iii) That attendance at such schools is optional”.*

This article pertains to minority groups present within the national territory of any country, and the recognition that they too have the right to carry out their own educational activities in harmony with their own cultural identity, of which language is a primordial component. This article not only exists to protect the right of cultural identity of an individual or collective group in general, but in specific with regards to the context of the birth of the CDE, i.e. to protect the right of the Bantu native people to carry out their own educational activities and to impede the South African Government of the Union from imposing them to any group that could be discriminated against due to race and color by the apartheid regime (as seen in Chapter 1). In fact, the Bantu Act of 1953 describes the term “native” as “any person who is or is generally accepted as a member of any aboriginal race or tribe of Africa”

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(Article 1v), and retains “Bantu” to “be synonymous with ‘native’ ” (Article 1i). In this context, the term “minority” pertains most to its “qualitative” aspect and not merely exhausting itself upon the “quantitative” aspect of minorities present within a state’s territory, i.e. when a certain ethnic group is less in number demographically than the majority-in-number group.

In the 1976 and 1992 censuses, Bolivia inquired on the ethnic condition of the population with language as the key indicator; thus directly identifying ethnicity on the basis of language. In 2001, three new questions were added to the census regarding indigenous populations and the language they learned during childhood (Figueroa Cárdenas, 2007, pp. 4-5). The three questions were:

- What is the language or tongue with which you learned to speak throughout your childhood?
- What languages or tongues do you speak?
- Do you consider yourself part of any of the following indigenous peoples?

The options available to answer these questions were the following eight: Castilian Spanish; Quechua; Aymara; Guaraní; other native; foreigner; does not speak yet; or cannot speak. The census classified as indigenous people those who during childhood learned a language other than Castilian Spanish or other foreign languages, such as English, Portuguese or French. In 2005, results showed that 32.2% of the Bolivian population was indigenous, while 67.8% was not. This case study provides useful information in order to measure the quantitative reality of different groups on the Bolivian territory that are considered as minorities at a demographic level, as well as which of the languages mentioned above are their original mother-tongue. This census provides the State with practical information in order to know what groups of the population need government attention for the protection of their respective rights; in this case, that of their own language.

Relevant to the rights given to the different groups that co-exist within the Plurinational State of Bolivia, whether minorities or not, Law No. 70 dedicates Chapter III to socio-cultural and linguistic diversity (*Diversidad sociocultural y lingüística*). Not to mention that Bolivia, par excellence, re-named itself the “Plurinational” State of Bolivia with the adoption of its new Political Constitution of 2009. This reform marks a historical moment not only for Bolivia, but for all the countries in the world that have ever experienced any type of imperialism, colonialism or exploitation. Bolivia manifested its declaration and action to leave behind a colonial, republican and neo-liberal State in order to assume the historical challenge of building a “Social United State of Communitarian Plurinational Right” willing to develop a democratic, productive, peace-inspirational Bolivia that compromises with integral development and the freedom of self-determination of peoples, as establishes the Preamble of the Political Constitution of the State of Bolivia of 2009. Article 80.2 of the Bolivian Constitution establishes that education will contribute to the strengthening of unity and identity of all as integral part of the Plurinational State, as well as the identity and cultural development of all members of each nation or peasant indigenous people, and understanding and intercultural enrichment within the State. That is why one of the goals of education is to foster “intercultural dialogue”, as established by Article 79 of the Constitution.

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Thus, two of the main principles at the foundation of Law No. 70 are intra-culturality and inter-culturality. Both principles are pillars for building one Plurinational State, the Plurinational State of Bolivia. The Law does not specify “minorities” per se; however, it retains inter-culturality to promote the recovery, strengthening, development, and cohesion among the cultures of original indigenous nations and peoples, peasants, inter-cultural and afro-Bolivian communities based on equality, solidarity, complementarity, reciprocity, and justice, since their knowledge and worldviews are all equally enriching for the Nation itself (Article 6). Instead, inter-culturality aims to promote the interaction of these different worldviews and knowledge among different cultures; a dialogue exchange that does not only strengthen one’s own identity, but the principle of equal-conditions-based interaction among different cultures both at a national and international level.

From the principle of being united in diversity, the Bolivian Constitution declares that the official languages of Bolivia are: Castilian Spanish and all original indigenous languages, such as *Aymara, Araona, Baure, Bésiro, Canichana, Cavineño, Cayubaba, Chácobo, Chimán, Ese Ejja, Guaraní, Guarasu’we, Guarayu, Itonama, Leco, Machajuyai-Kallawayá, Machineri, Maropa, Mojeñotrinitario, Mojeño-Ignaciano, Moré, Masetén, Movima, Pacawara, Puquina, Quechua, Sirionó, Tacana, Tapiete, Toromona, Uru-Chipaya, Weenhayek, Yaminawa, Yuki, Yuracaré, and Zamuco* (Article 5). Moreover, Article 5 of the Constitution declares that the Government and respective governmental departments must use at least two of the official languages; however, one of them must be Castilian Spanish. This thus becomes both a right and a duty: the right to choose the second official language to be used (i.e. the one used on the respective territory), along with the duty to use Castilian Spanish (the language-used by the majority after Spanish colonization) as the other official language, usually as the second choice if it is not the main language used by the territorial majority.

At a university level, Article 95 of the Constitution establishes that universities have the duty to provide programs for the recovery, teaching, strengthening, and dissemination of the different languages of the indigenous nations and peoples.

One principle underlying this cultural protection – since language itself is part of culture – is that operating in a second language or culture is the counter part of the instrumental ease of the achievements of one’s independent life plans and goals in a familiar one (Reaume, 2000, p. 248); not to mention the intrinsic value and utility that language holds for human creativity and identity. It is an aspect of culture and human life that deserves protection, for it is an aspect of human life that contributes to a State’s development and sustainability. The protection of language “revolves around maintaining or improving its usefulness in important domains” (Reaume, 2000, p.251), in this case: education.

Law No. 70 establishes that education must be conducted in the official mother-tongue of the people, for it serves as a pedagogical necessity, as well as a communication and knowledge development instrument (Article 7). The article further details the six following dispositions pertaining to the selection of official tongues:

- Monolingual peoples and communities with a predominant of that original language will have their original language as their official tongue, while Castilian Spanish will be their second tongue.

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- In populations or communities that are monolingual and of Castilian Spanish predominance, Castilian Spanish will be their official tongue while their original language will be their second tongue.
- In trilingual or multilingual communities or regions, the election of the original tongue – subjected to territorial and trans-territorial criteria defined by the community councils – will be considered as their official tongue while Castilian Spanish will be considered as their second tongue.
- In cases of languages in the brink of extinction, linguistic-recovery and development policies will be implemented through the direct involvement of the speakers of such language.
- The teaching of foreign languages will begin at a gradual and mandatory pace from elementary school on, with a pertinent methodology and specialized personnel, continuing at all level of the Plurinational Education System.
- The teaching of sign language is a right for all students that require it in the education system. The teaching of sign language constitutes as part of the multilingual training of teachers.

The Plurinational State of Bolivia has thus sanctioned at a legislative level the right of peoples to choose the language of their educational activities, by not imposing them a language that is not originally their own, with the sole exception, however, that the second language is to be Castilian Spanish. This suggests that the Bolivian education system promotes cultural-specific bilingualism (Castilian Spanish as a must, along with the territory-based language). This right is in harmony with Bolivia's pillar principles of intra-culturality, inter-culturality, the freedom of self-determination of peoples, and national unity. The right to decide upon the official language of educational activities and the latter principles are in harmony with the CDE's restriction on the right for minorities "to carry on their own educational activities, including... the use or the teaching of their own language", provided however "that this right is not exercised in a manner which prevents the members of these minorities from understanding the culture and language of the community as a whole and from participating in its activities, or which prejudices national sovereignty" (Article 5.1ci).

The different groups that make up the Plurinational State of Bolivia have the freedom to choose their official language through democratic participation depending on territorial location, while encompassing the colonial-inheritance of the Castilian Spanish language, which by now, and according to the conducted socio-demographic census of 2005, is the prevalent language of the quantitative majority of Bolivians (Figuroa Cárdenas, 2007, pp. 4-5). This encourages minorities belonging to different cultural realities to give space and understand the culture and language of the community as a whole, i.e. as one nation that encompasses and includes various different backgrounds. Law No. 70 therefore respects the rights of the minorities and of the different ethnic groups present in Bolivia by reflecting it through "official cultural-specific bilingualism" for education and governmental entities.

Another group with special rights is people who are disabled or have special educational needs. Law No. 70 establishes the duty to create educational policies that promote access and continuation in the education system of people with special educational needs due to disabilities without discrimination (Article 5.14). The CDE does not explicitly establish the

duty for State Parties to enact policies that favor disabled people to enjoy their full right to education, however, the principle of non-discrimination implicitly includes the protection against the exclusion of this group in a society, since the term discrimination “includes any distinction, exclusion, limitation or preference which...has the purpose or effect of nullifying or impairing equality of treatment in education” (Art. 1, CDE).

Law No. 70 goes beyond the CDE by including the disabled as a group in need of special policy attention and action in order to protect their equal access to and permanence in education, for they also have the equal right to fully develop their personality, potentials and capacities. On this note, Law No. 70 establishes an “Alternative and Special Education Sub-system” that is intra-cultural, inter-cultural, and multilingual in nature and that aims to prioritize and protect the Bolivian population that is excluded, marginalized, or discriminated against (Article 16).

## **Financing Education**

Although the CDE does not provide explicit financial measures to be taken by States Parties, nor does it make them responsible to provide such measures, financial resources are nevertheless a must and a duty in order to sustain an education system that encompasses at least the minimum standards established by the CDE. Below are the provisions concerning the funding of education within Law No. 70.

Education constitutes a supreme function and primary financial responsibility of the State, who has the binding obligation to sustain, guarantee and manage education (Article 32). Article 61 stipulates that Universities of Special Regime (*Universidades de Régimen Especial*) shall be managed and financed by the State. Among the objectives of the administration and management of the education system, is guaranteeing the provision of financial resources, qualified staff, infrastructure and materials in accordance with the necessities of each region (Article 74).

Article 80 stipulates that among the concurrent competences established by the Constitution and other legal dispositions, the local autonomous entities shall have the following attributions concerning education management:

- Departmental Governments are responsible for providing, financing, and guaranteeing basic services, infrastructure, furniture, and educational material and equipment to the Technical and Technological Institutes within their jurisdiction.
- Municipal Governments are responsible for providing, financing, and guaranteeing basic services, infrastructure, furniture, and educational material and equipment to the Educational Units of Regular Education, Alternative and Special Education, as well as the District and Cluster Offices within their jurisdiction.

Bolivia’s Education System shall be financed by the Plurinational State through resources of the National Treasury and local autonomous entities in accordance to the State’s Budget Law and Article 77 of the Constitution (Article 89).

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Law No. 70 establishes that education is free of charge at all levels up to high school (Article 1.9). The Plurinational State of Bolivia shall create and implement social programs that benefit those students who have less economic possibilities to access and continue in the education system (Article 5.11). It also aims to stimulate merit as well by providing scholarships for those students who have excellent academic achievement and natural prominent talent (Article 27II). In fact, not only does Bolivia provide these initiatives, but it declares its role in assuming financial responsibility as a supreme and primary State duty, not to mention that the State also takes the responsibility to provide free teacher-training (Article 32), hence the implementation of Teacher Training High Schools, which are free of charge and dependent on the Ministry of Education (Article 35I).

Yet, how apt is Bolivia in providing these funds, and thus in fulfilling these financial responsibilities? To answer this question, below is a synthesis of the financial aspect of education in Bolivia from 2001-2011 (please refer to Chapter 2). This analysis, even though it does not directly pertain to the legislative comparison between the CDE and Bolivia's Law No. 70, it is nevertheless crucial since financial support and aid relies most of all upon a State's budget allocation. The budget allocation destined to an education system is a vital element for the implementation of any legislative provision.

In Latin America, Bolivia is the country that destines the lowest percentage of its National Budget to the Education sector. From 2003 until 2009, the percentage of the National Budget destined to Education has relatively decreased. In 2010 and 2011, there was a doubling of the percentage due to the addition of a separate budget destined to Bolivia's Public Universities (*Universidades Públicas*), which received about 2% of the National Budget. In 2007, the Ministry of Education and Culture received about 0.59%, the lowest percentage throughout the period between 2001 and 2012. In 2010, the Ministry of Education and Public Universities received 2.52% all together (0.54% and 2.30% respectively); while 0.37% and 2.31% in 2011, respectively.

The budget destined to the Ministry of Education comes from the budget destined to the Executive Organ (*Organo Ejecutivo*, i.e. the Executive Branch), while the budget destined to Public Universities comes from the total National Budget. The average percentage of the budget destined to education from the total National Budget in the 2001-2011 period is of 0.89%, while the average percentage destined to education from the budget destined to the Executive Branch (2001-2011) is 1.10%.

Moreover, the percentage of the budget destined to education is extremely low domestically, i.e. in terms of the percentage destined to education from the National Budget; education holds on average 7<sup>th</sup> place in the budget allocation ranking, which is as follows: 1<sup>st</sup> Defense; 2<sup>nd</sup> Government; 3<sup>rd</sup> Health and Sports; 4<sup>th</sup> Justice; 5<sup>th</sup> Public Services; 6<sup>th</sup> Agriculture and Environment; 7<sup>th</sup> Education and Culture. Regionally, Bolivia holds the last place, i.e. in terms of the average amount that Bolivia destines to education (0.89%), in comparison to the average amount that the other Latin American countries destine to education.

With the introduction of "Public Universities" to the allocation of the National Budget from 2010 on, the budget of education has almost tripled. Nevertheless, Bolivia should destine about 2-3% more of its budget, at a constant and increasing rhythm, to the Ministry of Education, and prioritize education in order to strengthen the effectiveness of its education system and be able to uphold the duties and principles enshrined in the 2010 Avelino Siñani-Elizardo Pérez Education Law No. 70.



## Chapter 4: Colombia



Colombia is one of the six Latin American countries that has not yet ratified the CDE. Thus, it does not have the direct legally-binding responsibility to implement the CDE, but nevertheless has the responsibility as Member State of UNESCO to report on the implementation of the CDE Recommendation (as Chapter 1 explained). Colombia's non-ratification does not imply that the Government has not enacted legislation that serves to protect, expand, and fulfill the right to education at a national level. Colombia, just like Bolivia, has become State Party to other legally-binding international normative instruments that enshrine the right to education within their legal framework:

- The International Convention on the Elimination of All Forms of Racial Discrimination of 1965 (ratification: 02/09/1981)
- The International Covenant on Economic, Social and Cultural Rights of 1966 (ratification: 29/10/1969)
- The American Convention on Human Rights "Pact of San Jose, Costa Rica" of 1969 (ratification: 31/07/1973)
- The Convention on the Elimination of Discrimination against Women of 1979 (ratification: 19/01/1982)
- The Indigenous and Tribal Peoples Convention of 1989 (ratification: 07/08/1991)
- The Convention on the Rights of the Child of 1989 (ratification: 28/01/1991)

This chapter will thus analyze the elements of the principal national legislative instrument that the Colombian Government has adopted to implement the duties to protect the right to education at country level. The educational legislative instrument, other than the

Constitution itself, under evaluation is Law No. 115<sup>1</sup> of February 8<sup>th</sup>, 1994 (*Ley No. 115 de 1994 por la cual se expide la Ley General de Educación*). The result derived from the legal analysis between the CDE and Law No. 115 may serve to encourage Colombia to ratify the CDE. Below, however, is a brief description of the historical evolution of the Colombian education system since independence on July 20<sup>th</sup>, 1810.

## **Historical Background**

Before Colombian independence, Spanish colonies in Latin America were controlled by the Spanish. The Spanish colonizers installed an overall national system (which included the education system) that was private, exclusive, and Catholic. As part of the continent's independence movement, "Gran Colombia"<sup>2</sup> was declared an independent country on December 17<sup>th</sup> by the Congress of Angostura. This Republic, which lasted until 1831, was able to enact some legislation concerning education (Bonilla-Molina, 2004, p. 15).

The Cúcuta Congress of 1821 promulgated the Law on the establishment of schools for girls in religious convents, and decreed that the administration of primary education depended on the Secretary of the Interior, which had the duty to establish the Nation's educational policy. The Congress also decreed for local governors to organize and supervise education; however, it was the mayors and pastors the ones to supervise primary education (Ramírez & Salazar, 2007, p. 15). In attempt to shape more qualified teachers, Law No. 16 of 1822 ordered for the establishment of colleges (*escuelas normales*) in Bogotá, Caracas, and Quito.

The Decree of March 18<sup>th</sup>, 1826 stipulated that each parish had to create a school of first letters (*escuela de primeras letras*) for boys, and those that had left over resources and had the means could open these for girls. This type of provision had influence on the gender gap in education in Colombia during the 19<sup>th</sup> century. During the post-1810 independence period, less than 15 percent of enrolled students in primary school were girls. In 1869 the Secretary of the State of Cauca announced that out of the 272 educational establishments only 90 were for girls, and only 23 of those were financed by the State (Ramírez & Salazar, 2007, pp. 32-33).

Under Pedro Alcántara's Government, the Law of June 26<sup>th</sup>, 1842 decreed for the creation of colleges in the capitals of Colombia's twenty provinces. However, the government did not guarantee the necessary financial resources. This led for the creation of the colleges to depend upon the financial situation of their respective province and the contribution of parishes and its peoples. Furthermore, in 1863 when Colombia became a federation with its new nine sovereign States<sup>3</sup>, different laws that encouraged primary education at a local level were promulgated.

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<sup>1</sup> Law No. 115 of 1994: <http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=292>

<sup>2</sup> Gran Colombia consisted of present-day Colombia, Venezuela, Panama, Ecuador, and parts of northern Peru, and northwestern Brazil.

<sup>3</sup> Colombia's nine sovereign States back in 1863 were: Antioquia, Bolívar, Boyacá, Cauca, Cundinamarca, Magdalena, Santander, Tolima and Panamá.

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It was not until the 1870 Organic Decree of Public Education under General Eustorgio Salgar's Government that public primary education became free of charge, compulsory for all children between the ages of 6 and 14, secular, centralized, and supervised by the National Government through its Department of Public Education, which had branches in each State. This reform regulated pedagogy, school infrastructure, and teacher training, for which colleges for men and women were established in the nine capitals. The task and responsibility of establishing these nine colleges was given to nine German teachers in 1872. These teachers were all given six years to complete the mission.

The reform also divided the costs of education between the Nation, Federal States, and municipalities. For that time, the reform was substantial and represented a first national attempt to shape the education system; however, the "compulsory" and "secular" nature of schooling fomented tensions between the National Government and the Catholic Church – tensions which contributed to the beginning of the Colombian Civil War between 1876 and 1877. The war and its consequences slowed down the impact of the reform; many schools closed down and many students stopped going to class not only because the schools were closed, but also because they had to provide help at home and/or be a source of labor and income for the household. Even after the war, it took time for the schools and population to recover (Ramírez & Salazar, 2007, pp. 25-26).

The conflict between the Nation and the Church was surpassed with the 1886 Constitution and the 1887 Concordat. The education reform under then President Rafael Núñez called for education to be free of charge but not compulsory, and was to be managed and supervised by the Catholic Church. The 1887 Concordat stipulated that education was to be regulated by the Catholic faith, and bestowed the Church with the powers of supervising the academic curriculum and teachers and choosing the school materials. This lasted though until 1892, when the first General Law of Education was promulgated, establishing that the central Government would regulate education in Colombia, that the departments would manage and promote primary education, and that the municipalities would provide for the schools' infrastructure, texts and materials.

War, however, continued to be a reason for the slow progress that education experienced in Colombia. During the war of 1895 in the State of Cauca, the governor closed public elementary schools and its teachers became soldiers and the schools themselves became barracks (Ramírez & Salazar, 2007, p. 26). Colombia's main wars post-independence which slowed down progress in education were (*inter alia* minor province and state wars): the war of the "Supremes" (1839-1842), the 1876-1877 Civil War, the Civil War of 1,000 Days (1899-1902); World War I (1914-1818); World War II (1939-1945); and the "Era of Violence" (1946-1957). During the wars the number of children going to school decreased if not seized due to the closing of schools, school infrastructure was destroyed, and government spending was cut to finance the war. The post-war period, moreover, had other pressing priorities than education, e.g. economic and political reconstruction, and paying back the public debt inherited by wars.

Law No. 56 of 1927 decreed for compulsory primary schooling and allowed secondary colleges to become private and autonomous. The Constitutional reform of 1936 further secularized the State and strengthened State intervention. The education system reflected these changes as well. Public primary education was once again declared free of charge and

compulsory, and the financial resources destined to it increased. Departments and municipalities were the main actors to manage education spending.

Thus, during the 20<sup>th</sup> century the Colombian education system began to experience a separation from the old colonial Catholic system, became its own, and became more and more decentralized due to the federal nature of Colombia's political and administrative autonomy of its States, e.g. through Law No. 12 of 1986 which bestowed municipalities more functions, and the 1991 Constitutional reform which further decentralized the public administration. The contemporary Colombian education system is thus a stronger version of the one that began to concretely take shape especially during the second half of the 20<sup>th</sup> century; period during which Colombia experienced demographic growth, a decrease in mortality rates, urbanization processes, administrative decentralization, and an increased in education spending (Uribe, Ramírez, & Téllez, 2006, pp. 11-13). The current General Law of Education (Law No. 115) was promulgated in 1994.

### **The Right to Education and its Principles (Preamble and Articles 3-5 of the CDE)**

In Colombia, primary education and secondary education were officially nationalized on December 11<sup>th</sup>, 1975 with the promulgation of Law No. 43<sup>4</sup>. Article 1 of this Law bestowed the State the duty to provide primary and secondary education as a National public service. The costs of such provision shall be at the expense of the State, and of the departments, city halls, police stations, the Special District of Bogota, and municipalities.

On February 8th, 1994, the Colombian Congress passed Law No. 115 (hereinafter: the Law), through which the General Law of Education of Colombia was issued. This Law was due to the promulgation of the 1991 Colombian Constitution, which gave momentum to a legislative development in order to implement the new provisions established by the new social state of law. The Constitution and the Law of Education tried to adapt the law and provide solutions to the new changing reality and needs of Colombia and its peoples.

Article 9 of the Law enshrines the right to education and establishes that the development of such right shall be put into force by a statutory law. This article, however, has stirred controversy<sup>5</sup> since it prorogues the guarantee of the right to education to an eventual statutory law that is still inexistent as of 2012. Nevertheless, Constitutional Court rulings since 1992 (e.g. T-02, T-09, T-15, T-402, T-420 of 1992, T-92 of 1994) have declared education as a fundamental human right and as a duty for the State and society to respect and fulfill. Education, as a fundamental human right, has immediate application and is susceptible to protection by tutelage.

Moreover, the Colombian Constitution – as the highest form of written law – enshrines the right to education (Article 67), and specifically the right to education, *inter alia*, for children (Article 44). Even though Law No. 115 prorogues the guarantee of the right to education to an eventual statutory law, the right to education can be taken to court for its

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<sup>4</sup> Law No. 43 of 1975: <http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=288>

<sup>5</sup> For more information on the controversy, please consult: <http://www.mineducacion.gov.co/cvn/1665/article-109238.html>

defense since it is protected by the highest ranking form of written law (the Constitution), and, has been already declared as a fundamental human right with immediate application and tutelage by the Colombian Constitutional Court (see rulings above).

### **Non-Discrimination (Articles 1-3 of the CDE)**

Concerning the principle of non-discrimination, Article 5 of the Colombian Constitution stipulates that the State recognizes, without any discrimination whatsoever, the primacy of the inalienable rights of the individual and protects the family as the basic institution of society. Even though this article does not explicitly deal with non-discrimination in education, it does identify non-discrimination concerning “inalienable rights”. To that extent, Article 67 of the Constitution sanctions the right to education as a fundamental right under Title II of Rights, Guarantees, and Duties, Chapter I on Fundamental Rights. Furthermore, the principle of equality without discrimination is protected by Article 13 of the Constitution stipulating that since individuals are formally equal (i.e. equal before the law) they are entitled to equal protection and treatment by the authorities, and to enjoy the same rights, freedoms, and opportunities without discrimination on the basis of gender, race, national or family origin, language, religion, political opinion, or philosophy. However, since capacities, resources and skills among individuals may not be equal from their respective starting line to access opportunities, formal equality does not necessarily promise “fair equality”, and therefore “fair protection from discrimination”. Thus, Article 13 establishes that the State will promote the conditions necessary in order for equality to be real and effective and will adopt measures in favor of groups which are discriminated against or marginalized. The state will especially protect those individuals who on account of their economic, physical, or mental condition are in obviously vulnerable circumstances and will sanction any abuse or ill-treatment perpetrated against them.

The non-discrimination principle in education concerns admissions, access, treatment, and financial assistance, as stipulated by Article 3 of the CDE. Article 4 of Law No. 115 enshrines the duty of the Colombian State to promote access to and the coverage of education as a public service. Article 51 protects access to the different levels of education for adults. Article 186 establishes that the education in State establishments is free of charge; however, it does give priority for admissions into all levels of State education to sons and daughters of educational and administrative staff of the State’s education sector, as well as to those of the Armed Forces and the National Police that died while in active service. This last provision may be seen as affirmative action favoring those who have served the Colombian Nation. Moreover, Article 68 enshrines the goals of the eradication of illiteracy and the education of individuals with physical or mental deficiencies or with exceptional capabilities as special obligations of the State.

## **Primary and Secondary Education (Article 4 of the CDE)**

Article 4 of the CDE engages States Parties to make primary education free and compulsory. To that extent, Article 17 of Law No. 115 enshrines the compulsory nature of education at a pre-school, stipulating that pre-school education includes at least one compulsory year of school in State educational establishments for children that are under six years of age. Article 19 stipulates that basic education<sup>6</sup> is compulsory. To ensure that the compulsory nature of education is abided by, Article 7 of the Law endows the family the duty to enroll their sons and daughters in educational establishments that conform to their expectations as well as to the objectives established by the Colombian Constitution, the law and the overall institutional educational project of the Nation. The free nature of education for pre-school, primary, secondary and high school<sup>7</sup> in State educational establishments is sanctioned by Decree No. 4807<sup>8</sup> of 2011.

At a Constitutional level, the pillar of education is Article 67 of the Colombian Constitution, which stipulates that the State, society, and the family are responsible for education, which will be mandatory between the ages of 5 and 15, and which will minimally include one year of preschool instruction and nine years of basic instruction. Education will be free of charge in State educational establishments, without prejudice to those who can afford to defray the costs. It is the responsibility of the state to perform the final inspection and supervision of education in order to control its quality, to ensure it fulfills its purposes, and for the improved moral, intellectual, and physical training of those being educated; to guarantee an adequate supply of the service, and to guarantee to minors the conditions necessary for their access to and retention in the educational system. The nation and the territorial entities will participate in the management, financing, and administration of the state educational services within the limits provided in the Constitution and the law.

## **Higher Education (Article 4 of the CDE)**

Law No. 30<sup>9</sup> of 1992 regulates the level of higher education<sup>10</sup>, as cited by Article 35 of Law No. 115. Law No. 30 sanctions education as a cultural public service inherent to the social purpose of the State (Article 2); university autonomy (Article 3); the free development of freedom of thought and consciousness of cultural diversity (Article 4); and access based on individual capacity (Article 5). These provisions are based on Article 69 of the Colombian Constitution which sanctions university autonomy, the promotion of scientific research in public and private universities, as well as financial assistance for individuals apt for higher education.

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<sup>6</sup> Article 356 of the Colombian Constitution identifies “basic education” as primary and secondary, which comprehensively include nine school grades and it structures itself around a common curricula.

<sup>7</sup> According to Article 27 of Law No. 115, “middle school” comprises 10<sup>th</sup> and 11<sup>th</sup> grade.

<sup>8</sup> Decree No. 4807 of 2011: [http://www.mineduacion.gov.co/cvn/1665/articles-293306\\_recurso\\_1.pdf](http://www.mineduacion.gov.co/cvn/1665/articles-293306_recurso_1.pdf)

<sup>9</sup> Law No. 30 of 1992: [http://www.secretariassenado.gov.co/senado/basedoc/ley/1992/ley\\_0030\\_1992.html](http://www.secretariassenado.gov.co/senado/basedoc/ley/1992/ley_0030_1992.html)

<sup>10</sup> According to Article 35 of Law No. 115 stipulates that “higher education” comprises technical and professional institutions, university institutions or technological schools, and universities.

However, this Law is currently undergoing a process of national debate in order to elaborate a concrete Law of Higher Education Reform Bill, as the result of the democratic participation and input from all groups concerned. On April 12<sup>th</sup>, 2011, Minister of Education Cecilia María Vélez White filed the Reform Bill<sup>11</sup> to the General Secretariat of the Senate. However, after national turmoil and debates against the reform, deriving especially from students, the Sixth Commission of the House of Representatives voted 11-0 for the final withdrawal of the Higher Education Reform Bill on November 16<sup>th</sup>, 2011; vote which was based on the written request to the Commission by Minister Vélez White after Colombia's President Juan Manuel Santos announced for its official withdrawal.

On November 15<sup>th</sup>, the Minister announced that conditions were favorable to begin a dialogue process throughout the academic community in order to create a new reform bill, and urged students to end the strike and go back to class as soon as possible to finish the semester. Meetings, debates, and events within the academic community have been organized thus far in order to get input for the new reform bill at a national level. For example, within the framework of the fifth public debate on “democratic liberties and university wellbeing” (*Libertades democráticas y bienestar universitario*) organized by the National Round Table of Students (*Mesa Amplia Nacional Estudiantil; MANE*), vice-Minister of Higher Education Javier Botero Álvarez met with university students in Bucaramanga on August 10<sup>th</sup>, 2012 to reaffirm the compromise of the Ministry of Education to participate in all the possible opportunities with the aims of constructing the new higher education policy.

## **Quality of Education (Article 4 of the CDE)**

Another means of combating discrimination in education is by establishing minimum common and qualitative national standards of education both for public and private educational institutions. Article 4(b) of the CDE engages States Parties to ensure that the standards of education are equivalent in all public educational institutions of the same level, and that the conditions relating to the quality of the education provided are also equivalent. To that end, Article 74 of Law No. 115, establishes that the Ministry of National Education, with support from the National Board of Education (JUNE) has the duty to establish and regulate a national system of accreditation concerning the quality of formal and non-formal education, as well as to ensure to the State, society and families that educational institutions meet the established quality standards and develop the objectives of education. In order to ensure these standards and a quality education, the Ministry of National Education has the duty to establish a National Education Assessment System to operate in coordination with the National Testing Institute for the Promotion of Higher Education (ICFES) as well as with local authorities. This system constitutes as the basis for the establishment of education programs aiming to improve the overall public service of education. It is with Law No. 1324<sup>12</sup> of July 13<sup>th</sup>, 2009 that the standards and criteria to organize the Evaluation System are regulated.

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<sup>11</sup> Reform Bill of 2011: [http://www.mineducacion.gov.co/1621/articles-284552\\_archivo\\_pdf\\_articulado.pdf](http://www.mineducacion.gov.co/1621/articles-284552_archivo_pdf_articulado.pdf)

<sup>12</sup> Law No. 1324 of 2009: <http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=36838#0>

## **Continuing Education (Article 4 of the CDE)**

Article 4(c) of the CDE promotes for the education of persons who have not received any primary education or who have not completed the entire primary education course and the continuation of their education on the basis of individual capacity. To that extent, Article 50 of Law No. 115 defines adult education as education offered to adults that are no longer within the school-age range but wish to supplement, validate or complete their education. This article also stipulates the provision of distance-education or on a part-time basis, e.g. evening classes of formal and/or non-formal education, in order to facilitate access and retention for adults that work (Article 53). The goals of adult education consist of updating knowledge and training of adults, eradicating illiteracy, and develop in adults the capacity to participate in the economic, political, social, cultural, and communitarian life (Article 51).

Furthermore, the State offers adults the opportunity to validate their basic and middle school education and facilitate their access unto higher education as according to the law (Article 52). The Ministry of Education shall carry out non-formal adult education programs, in coordination with different governmental and private entities, particularly aimed at rural and marginalized and hard to reach areas. National Governments and local authorities shall promote education for social groups that lack basic training skills in accordance with the provisions of Article 8 of Law No. 60<sup>13</sup> of 1993 (Article 54).

With the aims of favoring educational, scientific, and technological integration among its members<sup>14</sup>, the Organization of the Andrés Bello Convention (*La Organización del Convenio Andrés Bello; CAB*), which holds international legal status, was created on January 31<sup>st</sup>, 1970 in Bogotá, Colombia. The CAB supports adult literacy projects among its members (Torres, 2009, p.28). This organization was created due to the initiative of Colombia's former Minister of Education Octavio Arizmendi Posada, under the Government of the former President Carlos Lleras Restrepo, and was approved by the Ministries of Education of the Andean Pact (Bolivia, Chile, Colombia, Ecuador, Peru and Venezuela).

Another initiative in promotion of continuing education is represented, for example, by the selection of Bogota as the 2007 World Book Capital in recognition of the multiple and highly innovative initiatives taken by the city government to promote reading as a public good all throughout the capital. The Selection Committee met on June 17<sup>th</sup>, 2005 in order to examine the applications to the nomination of the 2007 World Book Capital, in accordance with Resolution 31 C/29 adopted by the UNESCO General Conference on November 2<sup>nd</sup>, 2001. The Selection Committee examined the following candidatures: Amsterdam (The Netherlands), Bogota (Colombia), Coimbra (Portugal), Dublin (Ireland), Rosario (Argentina), and Vienna (Austria) (UNESCO Culture, 2007). The 2006 World Book Capital was Turin (Italy).

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<sup>13</sup> Law No. 60 of 1993: <http://www.alcaldiabogota.gov.co/sisjur/normas/Normal.jsp?i=274>

<sup>14</sup> Current CAB members are: Argentina, Bolivia, Colombia, Cuba, Chile, Dominican Republic, Ecuador, Mexico, Panama, Paraguay, Peru, Spain, and Venezuela. Six, however, were the original founding members (Bolivia, Chile, Colombia, Ecuador, Peru and Venezuela), while the rest became members after the creation of the CAB.



Another worthy example concerns the Education Model for the Colombian Penitentiary and Prison System. In the Constitutional Court Sentence T-213/11<sup>15</sup>, the Court alleges that penitentiary treatment holds two fundamental dimensions: 1) achieving the social reintegration of the prisoner; and 2) respecting the relation between the right to access study or work programs that redeem punishment and the fundamental right of personal liberty. The Sentence further cites Article 97 and 98 of the Penitentiary and Prison Code, which establishes that prisoners have the right to redeem punishment through education programs. With the aims of improving the quality of Penitentiary Education, a national and international meeting of educational penitentiary agents, the educational model for the Penitentiary and Prison System, and the improvement of its teachers was held from July 8<sup>th</sup> – August 2<sup>nd</sup>, 2008 in Villa de Leyva, Boyacá (Colombia) organized in cooperation by the International Center of Pedagogical Studies (French Ministry of Education), the EURO Social Program of the European Commission, Colombia's National Penitentiary and Prison Institute, and the Organization of Ibero-American States for Education, Science and Culture. Also participants to the event were the Ministry of Education, the Ministry of Culture, the National Library, 43 establishments that are piloting the project, and RedLece (the Latin American Network of Education in Prisons) which is financed by the European Commission and the French Ministry of Education (CVN, 2008). The network includes Argentina, Brazil, Colombia, Costa Rica, Ecuador, El Salvador, Honduras, Mexico, Paraguay, Peru and Uruguay. RedLECE acknowledges prison education as a lifelong learning human right (Torres, 2009, p. 31).

Moreover, every year on the occasion of International Literacy Day (September 8<sup>th</sup>), UNESCO awards International Literacy Prizes – two UNESCO King Sejong Literacy Prizes and two UNESCO Confucius Prizes for Literacy – to institutions, organizations and individuals whose efforts contribute to the promotion of dynamic literate societies. It is thus that during the ceremony on September 6<sup>th</sup>, 2012, Ms. Irina Bokova, Director-General of UNESCO, awarded one of the two UNESCO Confucius Literacy Prizes to Colombia's *Fundación Transformemos*. The prize was rewarded to the foundation and to its CEO and Academic Director, María Aurora Carrillo Gullo, for having designed and implemented the Interactive System Transforming by Educating (*Sistema Interactivo Transformemos Educando*), which serves as a tool that can contribute to the eradication of poverty and the achievement of peace through empowering and training vulnerable populations in regions that have suffered decades of war and conflict, and thus, where access to formal education is difficult. The project has contributed in achieving the eradication of illiteracy in Cartagena, Colombia (Transformemos Press, 2012).

### **Teacher Training (Article 4 of the CDE)**

Concerning the training of teachers on a non-discriminatory basis, as established by Article 4(d) of the CDE, Article 104 of Law No. 115 stipulates that teachers shall receive professional training and updating and will not be discriminated against based on his or her philosophical, political or religious beliefs. Furthermore, Article 110 stipulates that the

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<sup>15</sup> Court Sentence T-213/11: <http://www.corteconstitucional.gov.co/relatoria/2011/T-213-11.htm>

National Government will create the necessary conditions to facilitate the professional improvements of teachers with the aims of offering a quality education service. Teacher training aims at the professionalization, actualization, specialization, and perfection of teachers beyond post-graduate levels, and, it is with obtained degrees and training programs that a teacher shall be incorporated and allowed to ascend in the national promotion salary scale (Article 111). Article 192 stipulates that the Nation and local entities can create training, professionalization, and other types of incentives for teachers and school administrators whose institutions and students stand out in the respective evaluation processes.

Moreover, Article 68 of the Colombian Constitution establishes that individuals of recognized ethical and pedagogical suitability will be in charge of education, and that the law guarantees the professionalization and dignity of the teacher profession.

### **Human Development (Article 5 of the CDE)**

Article 5 of the CDE establishes the objectives of education: the full development of the human personality; the strengthening of respect for human rights and fundamental freedoms; the promotion of understanding, tolerance and friendship among all nations, racial or religious groups; and the maintenance of peace. Article 5 of Law No. 115, and in conformity with Article 67 of the Colombian Constitution, education shall achieve the following goals, *inter alia*: the full development of the human personality without any limitations except that of the rights of others and the legal order within a process of integral, physical, psychical, intellectual, moral, spiritual, social, affective, ethical, civic formation; the respect of life and human rights, peace, democratic principles of coexistence, pluralism, justice, solidarity and equity, tolerance and freedom; as well as on-the-job training within processes for the socio-economic development of Colombia and in order for the student to be able to enter the productive sector. To that extent, Article 15 defines pre-school education as the integral process for the development of a child's biological, cognitive, psychomotor, socio-affective, and spiritual aspects. Objectives of basic education encompass the fostering of Colombian values such as solidarity, tolerance, democracy, justice, social life, cooperation, mutual help, as well as ethical and moral values of human development (Article 20). Furthermore, Article 1 of Law No. 30 of 1992 establishes that higher education is a permanent process that allows for the development of the human potential.

### **Religious Education and Rights of Parents (Article 5 of the CDE)**

Concerning the rights of parents, Article 24 of Law No. 115 and Article 68 of the Colombian Constitution bestow parents the right to choose the type of education for their minor children. Article 24 of the Law guarantees the right to receive religious education, which shall respect the constitutional guarantees of both freedoms of conscience and worship (Article 19 of the Constitution), and that in State educational establishments no person shall be obliged to receive religious education (Article 23). In addition, religious education is regulated by Law No. 133 of 1994 on the Right to Religious Freedom.

## **Minority Rights (Article 5 of the CDE)**

With regards to minority rights, Article 68 of the Colombian Constitution stipulates that members of ethnic groups will have the right to training that respects and develops their cultural identity. Accordingly, Article 55 of Law No. 115 defines “ethno-education” as education for ethnic groups that is offered to groups or communities that make up a nationality and possess autochthonous culture, tongue, traditions, and jurisdiction. This type of education must be linked to the environment, production process, and social and cultural processes with due respect for their beliefs and traditions. Operating indigenous territorial entities shall be treated as municipalities for the provision of public educational services, subjected to the provisions stipulated in Law No. 60 of 1993 on the distribution of powers and the rule of law.

Article 64 of Law No. 115 stipulates the form of “rural education”, and gives to the National Government and territorial entities the duty to promote an educational service that is rural, formal, non-formal, and informal that is in harmony with the respective development programs, in order to give effect to the objectives established by Articles 64 and 65 of the Constitution<sup>16</sup>. This type of education encompasses technical training in agricultural, livestock, fisheries, forestry and agro-industrial activities that aim to improve the human condition, work, and quality of life of peasants and Colombia’s food production. Regarding the language of education, even though Article 10 of the Colombian Constitution declares Castilian Spanish the official language of Colombia, it also recognizes the tongues and dialects of ethnic groups as official within their respective territories. Thus, education within communities with linguistic traditions will be carried out on a bi-lingual basis.

## **Financing Education**

Title IX (Articles 173-192) of Law No. 115 regulates the financing of education. Chapter I is dedicated to the State’s financial resources, while Chapter II to special financial aid.

Article 173 establishes that education funding derives from the State. State education is financed through the resources obtained by tax revenues, with other national public resources established by law, and the resources provided by the departments, districts and municipalities in accordance with Law No. 60 of 1993. The financial resources destined to education are considered of being a social public expenditure (Article 174).

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<sup>16</sup> Article 64 of the Colombian Constitution bestows the State the duty to promote the gradual access of agricultural workers to landed property in individual or associational form and to services involving education, health, housing, social security, recreation, credit, communications, the marketing of products, technical and management assistance with the purpose of improving the incomes and quality of life of the peasants. While Article 65 states that the production of food crops will benefit from the special protection of the state. For that purpose, priority will be given to the integrated development of agriculture, animal husbandry, and fishery, forestry, and agro-industrial activities as well as to the building of physical infrastructural projects and to land improvement.

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The spending for the State's education service will be covered by the resources derived from tax revenues, and others as determined by law, thus guaranteeing salaries and welfare benefits to the teaching staff, and teaching and administrative administrators of State education at all levels, i.e. preschool, basic (primary and secondary), and upper secondary. These resources shall increase annually in a manner that will adequately respond to these educational services (Article 175). The regime for the salaries of State education teachers are regulated by Decree No. 2277 of 1979, Law No. 4a of 1002, and other respective norms.

Teachers that work for the official State public education establishments at the preschool, basic (primary and secondary), and upper secondary levels can become affiliated to the National Fund of Welfare Benefits of Teachers (*Fondo Nacional de Prestaciones Sociales del Magisterio*) (Article 176). Article 177 establishes that the departments and districts that during the five years before June 1993 invested in education an average amount superior to 15% of their ordinary budget shall receive priority and additional financial aid from the State to co-finance education spending. Those who invested less than 15% shall increase that amount until it reaches this percentage. The Treasury will make the necessary budget adjustments to comply with this article.

Article 178 bestows unto the municipalities the competence of paying teachers from the increased funds received by the State, who during the entry into force of this law were paid from their ordinary budgets. Article 179 establishes the Regional Education Funds (*Fondos Educativos Regionales*), which shall be part of the Education Departments of the respective local entities. For teacher salaries, the municipalities can establish a special account or can stipulate agreements with the Regional Education Funds to manage the corresponding resources (Article 181). Moreover, in State educational establishments there shall be a Fund for Teaching Services (*Fondo de Servicios Docentes*) to cover the different expenditures regarding salaries and benefits (Article 182). This Fund shall be managed by the Board of Directors. Municipalities in competition with departments shall finance the construction, maintenance, and equipment of State education institutions (Article 184).

Article 185 stipulates that the State shall establish the different types of credits, incentives, and support for State and private educational establishments to be destined to programs for the expansion of the educational coverage, construction, and improvement of sports and arts facilities, and teaching material and equipment. The National Government shall establish the credit guidelines through the financial system and the Territorial Development Financier, S.A., Findeter. Furthermore, the State shall stimulate through such mechanism education institutions that have a communal and cooperative character and that are based on solidarity. To comply with Article 71 of the Constitution, the State and local entities have the competence to provide incentives to individuals from the private and public sectors, and to State and private institutions that carry out activities of educational, scientific, technological and cultural research. Article 187 stipulates that the Co-Financing Fund for Social Investment (*Fondo de Cofinanciación para la Inversión Social, FIS*) can co-finance, along with the municipalities, programs for the acquisitions of buses and other vehicles for the transportation of students, as well as for the costs necessary to provide the school transportation service.

Another incentive provided by the Colombian State is enshrined in Article 186, which stipulates that the children of the teaching, administrative and management staff of the State's education sector and of the members of the Army and the National Police who died in service,

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shall have priority for the free admission and study in State education establishments at the basic, upper secondary and higher education levels.

Article 191 states that in order to guarantee universal basic education, the National Government and local entities can encourage the creation of non-profit associations, or that are based on a solidarity economy, made up of parents and teachers with the aims of creating educational establishments that can be financed with the contributions and payments from parents and State financial aid or services established by the contracts authorized by Article 355 of the National Constitution.

Financial resources and its management and distribution constitute the key to give full implementation to such an education system. As Chapter 2 evidenced, Colombia gives the highest budget allocation priority to education, on average from 2000 until 2012. The average budget allocation ranking at a national level is as follows: 1<sup>st</sup> Education; 2<sup>nd</sup> Defense; 3<sup>th</sup> Treasury; 4<sup>th</sup> Agriculture. The amount destined to the Ministry of National Education from the National Budget was lowest in 2000, with an average of 8.79%, while the highest was in 2003, with an average of 14.35%. At a regional level, Colombia holds 11<sup>th</sup> place when it comes to the average amount of the National Budget destined to education (12.78%).

## Chapter 5: Cuba



### Historical Background

The 1959 Cuban Revolution was not only a political revolution, but principally a social one. It aimed to transform the ideological foundations of the Cuban society. The Revolution was perceived as a “social healing process” that penetrated the public sector, especially in education and legislation, with the aims of combating class division, racial discrimination, prostitution, gambling, exploitation, and gender inequality. The Revolution gave way to the education reform that created a national system of public education, the construction of thousands of classrooms both in the countryside and cities, and the beginning of the eradication of illiteracy. For the Cuban population, the 1959 Revolution provided society with a double liberalization: national and social (Bell, Lopez, Caram, 2006, pp. 5-7).

The bases and structure of the education reform were established by Articles 48-59 of the Fundamental Law of February 7<sup>th</sup>, 1959<sup>1</sup>. This Law made education a public service which is compulsory and free of charge until the undergraduate level (Article 48); bestowed the State the duty of creating educational centers for adults with the aims of eradicating illiteracy (Article 49); established that the State shall provide teachers with training (Article 50); stipulated that the National Budget shall destine funds to the Ministry of Education that are not inferior to the amounts provided to other ministries, and gave teachers the status of public officials. However, the Second Transitory Provision to Title V of the Fundamental Law declares that the Council of Ministers would proceed to vote for an eventual General Education Reform Law. The Fundamental Law was in force until the adoption of the first socialist-revolutionary Cuban Constitution<sup>2</sup>, which was adopted on February 24<sup>th</sup>, 1976 after a year of public debate that concluded with a 98% vote-referendum that approved it, and was last amended on June 26<sup>th</sup>, 2002 with the adoption of its respective Law of Constitutional Reform.

<sup>1</sup> Fundamental Law of February 7<sup>th</sup>, 1959: <http://biblio.juridicas.unam.mx/libros/6/2525/38.pdf>

<sup>2</sup> The Cuban Constitution: [http://www.cubadebate.cu/wp-content/uploads/2009/06/go\\_x\\_03\\_2003.pdf](http://www.cubadebate.cu/wp-content/uploads/2009/06/go_x_03_2003.pdf)

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The Socialist Revolution continued to advance – especially after Fidel Castro officially became Prime Minister on February 16<sup>th</sup>, 1959 – and took shape with the following promulgated pieces of legislation: the Ministerial Resolution No. 403 of July 22<sup>nd</sup>, 1989 which establishes compulsory schooling (general, polytechnic and professional); Resolution No. 216 of June 7<sup>th</sup>, 1989 which regulates the evaluation system of students; Law No. 76 of 1959 which decentralized the technical-administrative regime of school organization in general; Law No. 561 of September 15<sup>th</sup>, 1959 which created 10,000 of basic education classrooms; and Law No. 559 of 1959 which stipulated the measures to reform lower secondary education.

On December 23<sup>rd</sup>, 1959 the “eventual” Reform Law of Education was finally promulgated: Law No. 680 on the Bases and Regulations of the Integral Reform of Education in Cuba (*Ley No. 680 Bases y normas reguladoras de la Reforma Integral de la Enseñanza en Cuba*). This Law explained the context of education in Cuba and contained the specific measures and regulations to be acted out by the Cuban Ministry of Education in order to implement the reform and re-structure the entire National Public Education System.

On June 6<sup>th</sup>, 1961 the Cuban Council of Ministers promulgated the General and Free Nationalization Law of Education (*Ley de Nacionalización general y gratuita de la enseñanza*) (hereinafter: the Nationalization Law). The Preamble of the Nationalization Law<sup>3</sup> illustrates the pre-Revolutionary context of education in Cuba: In many of Cuba’s educational centers, teachers and staff were “exploited” – which was contrary to the pillars of the Socialist Revolution and the proclamation of the National General Assembly of the Cuban People in the Habana Declaration, in which “exploitation of man by man” is condemned. In many of the private educational centers – especially those managed by religious Catholic orders – principals and teachers would conduct anti-revolutionary propaganda to the detriment of the intellectual, moral, and political education of students. Students from the upper classes of society were those who had access to these educational centers.

This type of activity was not only contrary to the principle of a free-of-charge education, but would also favor class division and privileges. The duty of the Cuban Revolution was to place all the means of education and culture at the service of all Cuban children and adolescents without discrimination or privileges. Thus, education became a duty of the Revolutionary State, which engaged in not transferring the management of education to

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<sup>3</sup> The Preamble of the Nationalization Law of 1961 in its original Spanish version reads: “...*La función de la enseñanza es un deber a cargo del Estado Revolucionario que este no debe delegar ni transferir...La enseñanza debe impartirse gratuitamente para garantizar el derecho a todos los ciudadanos a recibirla sin distinciones ni privilegios...En muchos centros de enseñanza se explotaba por sus propietarios a los que en ellos trabajaban como maestros y empleados, en contradicción con las ideas cardinales de nuestra Revolución Socialista y de las proclamas por la Asamblea General Nacional del Pueblo de Cuba en la “Declaración de La Habana” en la que se condena la explotación del hombre por el hombre...Es evidente y notorio que en muchos centros educacionales privados, especialmente los operados por órdenes religiosas católicas, los directores y profesores han venido realizando una activa labor de propaganda contrarrevolucionaria con gran perjuicio de la formación intelectual, moral y política de los niños y adolescentes a cargo de los mismos...A estos centros privados de enseñanza solo tenían acceso alumnos pertenecientes a las clases acomodadas lo cual, además de contravenir el principio de gratuidad de la enseñanza, favorecía la división de clases y fomentaba el privilegio...La Revolución Cubana se encuentra empeñada en la tarea de poner todos los medios de la educación y la cultura al servicio de todos los niños y jóvenes cubanos, sin distinción ni privilegios.”*

third parties. The Nationalization Law finally declared that education was to be free of charge in order to guarantee the right to education for all citizens without discrimination or privileges.

The Preamble of the Cuban Constitution – product of the 1959 Socialist Revolution – testifies the cry for liberty of the Cuban people against past oppression, exploitation and inequalities. The adoption of the 1976 and the 2002-amended Cuban Constitution is dedicated to: the aborigines who preferred extermination rather than submission; the slaves that rebelled against their masters; those who awakened the Cuban national conscience and the urge of liberty; the patriots who began the wars of independence in 1868 against Spanish colonization and won in 1898 (victory which was stolen after by American military intervention and occupation); and the workers, farmers, students, and intellectuals that fought during 50 years against imperialism, political corruption, lack of rights and liberties, unemployment, and imposed exploitation by capitalists.

This chapter will thus base the legal implementation of the CDE upon the following pieces of Cuban legislation: the Cuban Constitution, Law No. 680 on the Bases and Regulations of the Integral Reform of Education in Cuba, and the General and Free Nationalization Law of Education. Moreover, Cuba ratified the CDE on November 2<sup>nd</sup>, 1962.

It should be noted, that the detail research for Cuba's educational legal framework was limited since it was difficult, if not impossible, to find a published version of all of the pieces of legislation that are cited below.

### **The Right to Education and its Principles (Preamble and Articles 3-5 of the CDE)**

The State enshrines for all citizens, regardless of race, skin color, sex, religious belief, national origin and any other situation that may be harmful to human dignity, *inter alia*, the right to education at all levels in all national educational institutions, which are the same for all (Article 43). Moreover, Article 39(b) of the Constitution enshrines the free-of-charge nature of education, but it also stipulates that the State is to maintain a broad scholarship system for students as well as provide workers with multiple opportunities to study in order for them to develop their highest possible knowledge and skills. Articles 42 and 43 of the Cuban Constitution are thus in harmony with Article 3 of the CDE.

Article 1 of the Nationalization Law establishes that education is public and free of charge, and that it is the State that shall carry out this duty. Article 2 nationalizes the Cuban education system, and transfers all educational centers that were managed by individuals or private legal persons before the enactment of this law to the State.

With regards to access and availability, National Primary schools shall be distributed throughout the entire Cuban territory according to the demographic conditions and needs of the regions, in particular in areas with the highest level of cultural abandonment and rural zones (Article 33).



## **Non-Discrimination (Articles 1-3 of the CDE)**

The principle of non-discrimination is enshrined in the Cuban Constitution: all citizens have equal rights and are subject to equal duties (Article 41); and, discrimination because of race, skin color, sex, national origin, religious beliefs and any other form of discrimination harmful to human dignity is forbidden and will be punished by law (Article 42). Non-discrimination in education is also sanctioned, for State institutions have the duty to educate everyone from the earliest possible age under the principle of equality among human beings (Article 42).

## **Primary and Secondary Education (Article 4 of the CDE)**

Compulsory schooling until age 12 and until the sixth grade of primary school is enshrined in Article 5 of Law No. 680. This article also establishes that education shall be free of charge when it is the State, Province, or municipalities that provide it. Law No. 680 stipulates that secondary (Article 9) and upper secondary (Article 12) education shall be free of charge when provided by the State, Province, or municipality; however, pre-Baccalaureate studies can establish the payment of a tuition fee (Article 12). Therefore, the Ministry of Education will strive to create the indispensable means to expand compulsory schooling until the end of basic secondary education (Article 5).

Admission of students to Basic Secondary Schools depends on legal certified accreditation of the previous sixth grade, and upon the results of psychological examinations required to measure the student's aptitude in a scientific manner (Article 21). To be admitted to Pre-University Institutes, a Basic Secondary School graduation diploma is required along with a scientific and psychological examination for admission (Article 26).

These latter provisions are in harmony with Article 4 of the CDE on making primary education free of charge and compulsory, making secondary education in its different forms generally available and accessible to all, and making higher education equally accessible to all on the basis of individual capacity.

## **Higher Education**

Article 13 of Law No. 680 establishes that the State shall provide Higher Education in the Official Universities or in other official higher education centers. It further stipulates that Higher Education shall be regulated by a special law. It is thus that Law No. 1306 of July 31<sup>st</sup>, 1976 creates the Ministry of Higher Education, while Law No. 1307 of July 31<sup>st</sup>, 1976 establishes the organization structure of Higher Education, and creates the types of higher education institutions available. Moreover, Law Decree No. 67 of April 19<sup>th</sup>, 1983 reasserts that the Ministry of Higher Education is the organ in charge of the direction, execution and monitoring of the application of the State's policy implementation concerning higher education. Law Decree No. 147 of April 21<sup>st</sup>, 1994 replaced the 1983 Law Decree.

## **Quality of Education (Article 4 of the CDE)**

The main pieces of legislation chosen to analyze Cuban's educational legal framework do not contain provisions that regulate the quality of education. Regarding quality, only Article 57 of Law No. 680 stipulates that the supervision, educational and scientific orientation and valuation of Basic and Higher Education Teachers shall be carried out in accordance to the norms established by Law No. 559 of September 15<sup>th</sup>, 1959.

It is through apposite legislation that quality is regimented in the Cuban education system: Ministerial Resolution No. 403 of July 22<sup>nd</sup>, 1989 sets out the guidelines of the education system for all of the compulsory education levels (general, polytechnic and professional); Ministerial Resolution No. 216 of June 7<sup>th</sup>, 1989 regulates the evaluation system of pupils at all of the compulsory education levels; Ministerial Resolution No. 120 of 2008 which regulates the Inspection System; and Ministerial Resolution No. 292 of 1990 on the evaluation system of primary education. Moreover, The Ministry of Education has a manual (*Criterios Para Evaluar El Proceso Educativo*)<sup>4</sup>, which establishes the criteria of evaluation necessary to guarantee the best learning environment for children and is used to evaluate the educational process and the quality of education in general.

## **Continuing Education (Article 4 of the CDE)**

Concerning continuing, non-formal, and adult education, Article 7 of Law No. 680 stipulates that Vocational Schools have the objective, *inter alia*, to adequately prepare those who, having passed the fourth grade, were not able to complete primary education due to socio-economic or any other reasons. These schools shall provide education that corresponds to the fifth and sixth grade or primary school. Article 28 establishes "Free Education" (*Enseñanza Libre*) in Pre-University Institutes allowing students that are three years older than the average class age to be admitted. Article 40 establishes evening classes in centers that according to the Ministry of Education need it, specifically for those who work during the day. Primary Teacher Schools are exempted from this latter provision.

In October 2001, the special program for adult education (*Curso de Superación Integral para Jóvenes*) was launched with the aims to respond to the urgency of job creation for young people between the ages of 17 and 29. The program is regulated by the Ministerial Resolutions No. 134 of 2001 and No. 209 of 2004.

As previously mentioned, the Revolution retained that literacy was of State priority. Law No. 680, for example, declared illiteracy as a socio-political urgency since about 41.63% of the entire Cuban population was illiterate (i.e. two million and eight-hundred thousand Cubans). A root cause of this was that there were not enough primary schools, thus Law No. 561 was promulgated on September 15<sup>th</sup>, 1959, creating 10,000 of basic education classrooms in rural and urban areas. Not to mention that the Fundamental Law of 1959 establishes that the State shall maintain, *inter alia*, a free-of-charge school system for adults, particularly dedicated to the elimination and prevention of illiteracy (Article 49).

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<sup>4</sup> The evaluation manual: <http://mediateca.rimed.cu/media/document/1027.pdf>

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The “*Yo, Sí Puedo*”<sup>5</sup> (*Yes, I Can*) Literacy Program was thus launched by the Cuban Government in 2001 thanks to the initiative of Leonela Relys Diaz, Doctor of Pedagogical Sciences. With cooperation from Cuba’s Latin American and Caribbean Pedagogical Institute (IPLAC), the program has been and is being implemented in about 28 countries worldwide. Cuban teachers in 28 countries have implemented the program’s methodology thereby helping about 3,605,955 people become literate as of December 2007 (Cuba-IBE UNESCO, 2008, p.6). This initiative is an example of South-South cooperation, which began in Haiti through radio lessons in 2002 and in Venezuela through video classes in 2005 (Torres, 2009, p. 32).

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<sup>5</sup> For more on the *Yo, Sí Puedo* Literacy Program, please consult:  
[http://www.ecured.cu/index.php/Programa\\_cubano\\_de\\_alfabetizaci%C3%B3n\\_Yo\\_si\\_Puedo](http://www.ecured.cu/index.php/Programa_cubano_de_alfabetizaci%C3%B3n_Yo_si_Puedo)

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Table 5.1 below displays the participating countries in the *Yo, Sí Puedo* program, along with their respective rates of illiteracy as according to the Literacy Department of the Pedagogical Institute of Latin American and the Caribbean (Cuba-IBE UNESCO, 2008, p.42):

**Table 5.1. Participating Countries in the *Yo, Sí Puedo* Program**

<b>Country</b>	<b>Illiteracy Rate</b>
Argentina	3.2
Bolivia	14.6
Brazil	13.1
Canada	1
Colombia	8.4
Dominican Republic	16.3
Ecuador	8.4
El Salvador	31.3
Equatorial Guinea	61.8
Grenada	4
Guatemala	12
Guinea-Bissau	63.4
Haiti	48
Honduras	25
Mexico	8.8
Mozambique	53.5
New Zealand	1
Nicaragua	33.5
Nigeria	Not available
Panama	8
Paraguay	6.4
Peru	10.1
Saint Kitts and Nevis	2.4
Tanzania	30.6
Timor Leste	41.6
Uruguay	2
Venezuela	7.5

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With the assistance of Cuba, Venezuela and Bolivia were self-declared free of illiteracy in 2005 and 2008, respectively. Venezuela claims that about one million people of the population became literate in 5 months and 27 days in the 34 languages and ethnicities that exist in the country. In addition, even people of over 100 years-old were alphabetized with this method. One of them declared: “I had to wait 102 years to be able to write my name. Now, I can die in peace” (EcuRed, 2012). This led to the self-declaration of Venezuela as a territory free of illiteracy in 2005. In Mexico, the program is implemented in the States of Michoacán, Oaxaca, Veracruz and Nayarit. Mexican actors contributed to the creation of the program’s audio material, which includes the different variations of Spanish spoken in the country. In Panama, the program was launched in the Province of Chiriquí in 2007 and has been implemented by the Ministry of Social Development benefiting about 19,783 residents. It is thus that more than 60,000 Panamanians have become literate, which means that Panama’s illiteracy rate dropped to 5 percent (Correo del Orinoco, 2012). In Africa, the program is implemented in Nigeria, Guinea-Bissau, Mozambique, Angola and South Africa. The program has also been implemented in New Zealand and Seville (Spain), which is the first European city to implement the program with an estimated illiterate population of 35,000 (EcuRed, 2012).

The program’s methodology allows students to become literate in a minimum of 7 weeks. Its formative structure is divided in 3 stages: training; teaching how to read and write; and consolidation. A pupil’s knowledge level is measured through a pedagogical diagnostic that can classify the pupil as: 1) “pure illiterate”, i.e. pupils who have no relation whatsoever with education and have never been to school; 2) “semi-illiterate”, i.e. pupils who have gone to school or know how to write some letters or words, or have forgotten what was learned due to the lack of practice; or 3) “special illiterates”, i.e. pupils with special educational needs due to physical and/or mental restrictions.

The program has a pre-phase of preparation and adaptation to the place where it is to be executed, since it must be adapted to the reality and idiosyncrasy of the society that will be benefiting from the program. This implementation is possible through cooperation between Cuba and the entity of the beneficiary country that was given the duty to carry out the program at the local level. In many of the participating countries, the program has been implemented by religious organizations and NGOs. The teaching module includes a booklet and 17 videos that make up the 65 lessons. Out of these 65 lessons, 10 are dedicated to the first stage of training, 42 to the stage of teaching how to read and write, and 13 to the consolidation stage.

One of the five UNESCO King Sejong Literacy Prizes<sup>6</sup> awarded in 2006 was bestowed to the Youth and Adult Literacy and Education Chair of the Latin American and Caribbean Pedagogical Institute of the Republic of Cuba (IPLAC) for its work to advance individual and social potential through successful innovative teaching methods in about 30 countries. The award also recognizes work carried out in designing a complex Evaluation Model of variables, indicators and instruments to monitor and assess the impact of these literacy programs on the newly literates and their human environment as well as measuring their individual development. Audiovisual and new information and communication

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<sup>6</sup> For more detail on the 2006 Literacy Prize winners, please consult:  
[http://portal.unesco.org/en/ev.php-URL\\_ID=33384&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=33384&URL_DO=DO_TOPIC&URL_SECTION=201.html)

technologies were used to extend the reach and the efficiency of the teaching material, including post-literacy material, developed for the program (UNESCOPRESS, 2006).

In the Report of the Working Group on the Universal Periodic Review of March 3<sup>rd</sup>, 2009, Recommendation 22 encouraged Cuba to continue with enlightened initiatives such as the Yes, I Can literacy program in diverse regional, national and local realities (a program which is aimed at implementing the right to education, broaden the scope of its cooperation in sharing and replicating its home-grown methods of combating illiteracy) as well as the Operation Miracle in the field of health in Venezuela, Bolivia, and Honduras (Human Rights Council, 2009, p.25). The recommendations were accepted by Cuba. The Cuban *Yo, Sí Puedo* method has been contributing to the eradication of illiteracy, teaching more than 3.6 million people in about 30 countries to read and write. (Human Rights Council, 2009, p.6).

In Latin America, other literacy initiatives have also been launched. In Madrid (Spain) the Ibero-American General Secretariat (SEGIB) and the Organization of Ibero-American States for Education, Science and Culture (OEI) presented the Ibero-American Plan for Literacy and Basic Education for Youth and Adults 2007-2015 (*Plan Iberoamericano de Alfabetización y Educación Básica de Personas Jóvenes y Adultas; PIA*)<sup>7</sup>. This plan aims to make literate more than 34 million illiterates living in Latin America. Following the XVII Summit of Santiago de Chile in 2007, seventeen countries supported and adhered to the Plan: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Spain, Guatemala, Honduras, Mexico, Nicaragua, Paraguay, and Peru (Secretaría General Iberoamericana, 2009, p.1). Since the late 1990s, several countries in Latin America and the Caribbean have started to give more importance to adult literacy. Drawing from innovative programs in Latin American countries, the plan aims to provide three years of basic education to 34 million illiterate adults. Also eligible for support are 110 million illiterate young adults who did not complete primary education (UNESCO, GMR 2011, p.7).

## **Teacher Training (Article 4 of the CDE)**

Regarding teacher training and the teaching profession without discrimination, Law No. 680 stipulates that all teachers shall be commonly denominated as “primary teachers” (Article 14); the Ministry of Education shall organize and structure intensive courses, seminars, and studies of professional development, and other educational activities that contribute to the integration of Teachers of Primary Education in National Schools (Article 17). A University degree is required to exert the teaching profession at a secondary basic or higher level of education (Article 19), while graduation from Secondary Basic School and passing aptitude and vocational examinations are required in order to be admitted to the Primary Teacher School (Article 25).

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<sup>7</sup> The Ibero-American Plan for Literacy and Basic Education for Youth and Adults 2007-2015: <http://segib.org/programas/files/2010/01/Anexo-VI-Informe-2009-PIA-para-SEGIB.pdf>

## **Human Development (Article 5 of the CDE)**

As established by Article 5 of the CDE, the purpose of education is to reach the full development of the human personality, to strengthen respect for human rights and fundamental freedom, to promote understanding, tolerance and friendship among all nations, racial or religious groups, and to the maintenance of peace. Article 4 of Law No. 680 stipulates that throughout the course of primary school, the learner shall gradually become a “citizen” and come to possess awareness of his or her citizenship, rights, duties, and culture in order to be able to invest in his or her community. A citizen shall possess the indispensable cultural tools for his or her individual development and for the progress of the Nation. Development encompasses freedom of expression and thought, knowledge and awareness of the physical, natural and social surrounding environment, quantitative reasoning, positive civic conduct, and attitudes propitious to human progress. These are the essential developmental processes that the Cuban student is to go through to guarantee the uniformed human development that will allow the Nation to realize full liberty and sovereignty.

Law No. 680 establishes that vocational and cultural training that aim to build a high moral and civic conscience is the principal purpose of secondary basic schools (Article 18) and pre-University Institutes (Article 26). The Ministry of Education has the duty to establish the curricula for primary and secondary education, which shall respond to the socio-economic realities of the country, the Revolutionary democratic ideal, as well as to the characteristics, abilities, aptitudes, emotional and spiritual balance of the Cuban youth, with the aims of developing maturity and growth in an integral and harmonious manner (Article 35).

## **Religious Education and Rights of Parents (Article 5 of the CDE)**

It should be noted that none of the analyzed pieces of legislation endow the right of parents “to choose for their children institutions ... [and] to ensure...the religious and moral education of the children in conformity with their own convictions”, as established by Article 5 of the CDE. However, Article 44 of the Republic’s Fundamental Law established the duty for parents to, *inter alia*, educate and teach their children. In relation to religion and education, Article 46 of Law No. 680 stipulates that private schools have the right to provide the religious education that they wish to teach, provided that it is in conformity with Article 55 of the Fundamental Law, which established that official education in Cuba is secular, and that private education centers shall be subjected to State regulations and inspections, just like the Official Secondary Education of the State is. This Law also gives them the right to provide the religious education they wish to teach.

## **Minority Rights (Article 5 of the CDE)**

It should be noted that none of the analyzed pieces of legislation endow rights to neither parents (as seen above) nor minorities. Moreover, Article 2 of the Cuban Constitution recognizes Castilian Spanish as the only official language of Cuba, thereby not recognizing other languages that may be used by minorities. However, it should be noted that on the 10th Summit of the Bolivarian Alliance for the Americas held in Otavalo, Ecuador on June 25<sup>th</sup>, 2010, new goals of social justice aimed at increasing the inclusion of indigenous peoples and Afro-descendants were established by Ecuadorian President Rafael Correa, Venezuelan President Hugo Chavez, Bolivian President Evo Morales, and Cuban Vice President Esteban Lazo. These Heads of State signed the Declaration of Otavalo<sup>8</sup>, which advocates for the construction of inclusive, culturally diverse and environmentally responsible Latin American societies. Paragraph 9 of the Declaration reads as follows: We are committed to strengthening public policies that provide access to health, education, employment and housing on a priority basis in favor of those most severely excluded, and to promote policies in direct benefit of Indian and Afro-descendent People.

## **Financing Education**

The 1961 Nationalization Law establishes that education is “free” and a “charge”, and thus cost, to the State. Moreover, Article 52 of the Fundamental Law establishes that all public education shall be included within the budgets of the State, Province or municipality, and shall be destined to the technical and administrative department of the Ministry of Education, except for subjects that depend on other ministries. The budget destined to the Ministry of Education shall not be less than the budget of other ministries, except in cases of emergencies as declared by law. The salary of a public education teacher shall not be inferior to the millionth part of the Nation’s total budget.

As Chapter 2 explained, the National Office of Statistics (*La Oficina Nacional de Estadísticas*) documented Cuba’s budget allocation by sector starting in 2006. From 2000 until 2005, Cuba published its annual National Budget Law, however, not indicating how much of the budget would be destined to each sector of society. The average of the budget amount that was destined to the Education Sector (*Sectorial de Educación*) from 2006 until 2011 is of 18.57%. The lowest amount of the budget destined to education was that of 2006 (15.93%), while the highest amount came in 2011 (21.16%). The amount of Cuba’s National Budget destined to education increases at a steady pace. At a domestic level, Cuba gives the highest budget allocation priority to education. On average, the budget allocation ranking is as follows: 1<sup>st</sup> Education; 2<sup>nd</sup> Businesses; 3<sup>rd</sup> Public Health; 4<sup>th</sup> Social Security; 5<sup>th</sup> Defense; 6<sup>th</sup> Treasury. As Cuba’s National Budget slightly increases, the amount destined to education increases more than proportionally. At a regional level, Cuba places 5<sup>th</sup> when it comes to the average amount of the National Budget destined to education (18.57%).

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<sup>8</sup> Declaration of Otavalo: <http://www.alba-tcp.org/contenido/declaracion-de-otavalo>



## Chapter 6: Guatemala



### Historical Background

Guatemala and its people endured a Civil War<sup>1</sup> that lasted 36 years (1960-1996), whose origins had an economic, political, ideological, religious, and ethnic character. During this same period, the Central American region was also infected by the turmoil. It was on May 24<sup>th</sup> and 25<sup>th</sup>, 1986 and on August 7<sup>th</sup>, 1987 that Central American presidents<sup>2</sup> gathered to dialogue and address the armed conflicts affecting the region; a summit which led to the Esquipulas Declaration I and II<sup>3</sup>, respectively. Peace was officially stipulated on December 29<sup>th</sup>, 1996 in Guatemala City with the signing of the “Firm and Lasting Peace Accords” (*Acuerdos de paz firme y duradera*)<sup>4</sup>, which is the last of a series of agreements signed in different *lieu*. However, the process to reach this date was a long one that encompassed the signing of various accords. Below, is a chronological list of the agreements if the peace process not only in Guatemala, but in the entire Central American region:

- May 25<sup>th</sup>, 1986 (Esquipulas, Guatemala): *Declaración de Esquipulas*;
- August 7<sup>th</sup>, 1987 (Ciudad de Guatemala): *Acuerdo de Esquipulas II Procedimiento para establecer la paz firme y duradera en Centroamérica*;

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<sup>1</sup> For a more detailed recapitulation of Guatemala’s Civil War, please consult *Guatemala, Memoria del Silencio* (1998): <http://shr.aaas.org/guatemala/ceh/mds/spanish/toc.html>

<sup>2</sup> The Central American presidents that gathered for the dialogue were: Oscar Arias Sánchez of Costa Rica, Marco Vinicio Cerezo Arévalo of Guatemala, José Napoleón Duarte of El Salvador, José Azcona Hoyo of Honduras, and Daniel Ortega Saavedra of Nicaragua.

<sup>3</sup> The Esquipulas Declaration II: <http://www.guatemalaun.org/bin/documents/Esquipulas%20II.pdf>

<sup>4</sup> The 1996 Firm and Lasting Peace Accords:

<http://www.guatemalaun.org/bin/documents/Acuerdo%20de%20Paz%20Firme%20y%20Duradera.pdf>

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- August 22<sup>th</sup>, 1987 (Caracas, Venezuela): *Acta de instalación de la Comisión Internacional de Verificación y Seguimiento*;
- September 11<sup>th</sup>, 1987 (Ciudad de Guatemala): *Acuerdo de Creación de la Comisión Nacional de Reconciliación*;
- March 29<sup>th</sup>, 1990 (Oslo, Norway): *Acuerdo de Oslo Acuerdo básico para la búsqueda de la paz por medios políticos*;
- April 26<sup>th</sup>, 1991 (México D.F.): *Acuerdo de México de procedimiento para la búsqueda de la paz por medios políticos*;
- July 25<sup>th</sup>, 1991 (Querétaro, México): *Acuerdo de Querétaro sobre democratización para la búsqueda de la paz por medios políticos*;
- January 10<sup>th</sup>, 1994 (México, D.F.): *Acuerdo marco para la reanudación del proceso de negociación entre el Gobierno de Guatemala y la Unidad Revolucionaria Nacional Guatemalteca*;
- March 29<sup>th</sup>, 1994 (México D.F.): *Acuerdo de calendario de las negociaciones para una paz firme y duradera en Guatemala*;
- March 29<sup>th</sup>, 1994 (México D.F.): *Acuerdo global sobre derechos Humanos*;
- March 29<sup>th</sup>, 1994 (México D.F.): *Declaración conjunta del Gobierno de Guatemala y de la Unidad Revolucionaria Nacional Guatemalteca*;
- June 17<sup>th</sup>, 1994 (Oslo, Norway): *Acuerdo para el reasentamiento de las poblaciones desarraigadas por el enfrentamiento armado*;
- June 23<sup>rd</sup>, 1994 (Oslo, Norway): *Acuerdos sobre el establecimiento de la Comisión para el esclarecimiento histórico de las violaciones a los derechos humanos y los hechos de violencia que han causado sufrimiento a la población guatemalteca*;
- March 31<sup>st</sup>, 1995 (México D.F.): *Acuerdo sobre identidad y derechos de los pueblos indígenas*;
- August 22<sup>nd</sup>, 1995 (Isla de Contadora, Panama): *Declaración de Contadora*;
- March 19<sup>th</sup>, 1996 (Guatemala): *Declaración unilateral de URNG, de cese al fuego*;
- May 6<sup>th</sup>, 1996 (México D.F.): *Acuerdo sobre aspectos socioeconómicos y situación agraria*;
- September 19<sup>th</sup>, 1996 (México D.F.): *Acuerdo sobre fortalecimiento del poder civil y función del Ejército en una sociedad democrática*;
- December 4<sup>th</sup>, 1996 (Oslo, Norway): *Acuerdo sobre el definitivo cese al fuego*;
- December 7<sup>th</sup>, 1996 (Stockholm, Sweden): *Acuerdo sobre reformas constitucionales y régimen electoral*;
- December 12<sup>th</sup>, 1996 (Madrid, Spain): *Acuerdo sobre bases para la incorporación de la Unidad Revolucionaria Guatemalteca a la legalidad*;
- December 18<sup>th</sup>, 1996 (Ciudad de Guatemala): *Decreto No. 145.96 del Congreso de la República de Guatemala*;
- December 27<sup>th</sup>, 1996 (Ciudad de Guatemala): *Ley de Reconciliación Nacional*;
- December 29<sup>th</sup>, 1996 (Ciudad de Guatemala): *Acuerdo sobre el cronograma para la implementación, cumplimiento y verificación de los acuerdos de paz*;
- December 29<sup>th</sup>, 1996 (Ciudad de Guatemala): *Acuerdos de paz firme y duradera*.

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Education was nevertheless an important component in the building of a new Guatemalan Nation, though with a much minor and limited role. Since Guatemala was an exclusively rural land before Spanish colonization, the role that indigenous peoples and communities play in the history of the development of both education and the Guatemalan Nation is of high significance. Discrimination was the rule during colonial times in Guatemala. The discrimination practiced by the Spanish established governments against the indigenous population led to their social, economic, political, and cultural exclusion. This exclusion was justified by the colonial ideology of cultural and biological inferiority of the indigenous peoples. This was reflected on the geographical segregation carried out by the governments separating the indigenous population from the Spanish, thus creating an “Indian Republic” and a “Spanish Republic” each with their own church and government (King, 2000, p. 7).

It was not until independence in 1821, that the liberal project to build a slave-free Nation based on universal citizenship began, as established by the 1824 Constitution of the Federal Republic of Central America. The lifespan of this Constitution, however, lasted until 1829, since citizenship was made exclusive to literate males, thus benefitting the *ladino-mestizo*<sup>5</sup> population who gained access to the administrative power. Moreover, the 1839 Constitutional reforms stipulated that although all men have equal rights by nature, their condition in society is not the same since some lack the necessary enlightenment to know and defend their own rights. It was thus that the national project was based on education, i.e. one that aimed to homologate and assimilate the indigenous population into the Euro-Catholic model (Gálvez Borrel, 1999, p. 299).

From 1821 until 1945, Guatemalan legislation that concerned indigenous peoples was oriented towards integration by extermination, segregation, and subordination in order to create a homogenous Nation State. Education continued to have the colonial inheritance, i.e. religious. Another liberal ideological turn was in 1871. During this period some educational reforms were passed making education secular and night schools were established with the purpose of training artisans. Special schools for indigenous peoples and the Agricultural Institute for Indigenous Peoples for teacher training were created in 1879 and 1891, respectively (King, 2000, p. 10).

The militarist dictatorship of Ubico from 1931 until 1944 was a period during which education was controlled by the military. In 1944, the era of the democratic governments with Arévalo and Arbenz began, which saw education as the key agent in the process to democratize Guatemala. In 1944 university autonomy was declared, and through Decree No. 72 of 1945 the National Law of Literacy was promulgated and remained in force until the 1978 Literacy Law.

The 1945 Literacy Law, however, was aimed at the *castellanización* (alphabetization in Castilian Spanish) of the indigenous peoples. In 1949, ex-President Arévalo created a new educational model called *Escuelas Tipo Federación y los Núcleos Escolares Campesinos*, which later became the General Department of Fundamental Education (*Dirección General de Educación Fundamental*) in 1952, and became the General Department of Rural Socio-Educational Development (*Dirección General de Desarrollo Socio Educativo Rural*) in 1955. Special colleges for the training of teachers in rural primary education – a degree which lasted five years – were also created.

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<sup>5</sup> *Ladino* or *mestizo* is the Spanish word to describe people of mixed race, usually from European descent.

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In 1965, the Department of Literacy and Adult Education within the Ministry of Education was created aiming to contribute to the process of *castellanización* and the formation of adults, as stipulated in the 1965 Organic Law of National Education as well as in the 1976 Law of National Education. It was the 1978 Law of Literacy, however, that introduced a broader vision of literacy, i.e. a process that should respond to the interests and necessities of the person, which does not only teach people just how to read and write.

This democratic era was halted by a *coup d'état* with the help of the United States of America in 1954. American agencies, such as the Alliance for Progress initiated by former U.S. President Jon F. Kennedy in 1961, arrived in Guatemala to execute educational projects. The Catholic Church also carried out educational projects in rural zones to counterbalance the American developmental projects.

On February 4<sup>th</sup>, 1983, Guatemala ratified the CDE, and it was with the 1985 Guatemalan Constitution, which was last amended in 1993, that Guatemala is recognized as a multicultural and multilingual nation for the first time in history. The Department of Literacy was turned into the National Committee of Literacy (*Comité Nacional de Alfabetización* – CONALFA) by Decree No. 43 of 1986, which promulgated the 1986 Literacy Law. This Law stipulated that the seven departments with the highest illiteracy rates coincided with the regions that were predominantly indigenous, areas which the Law considers as priority areas. The use of indigenous languages is guaranteed in the process of alphabetization, giving the bilingual indigenous student the right to choose the language through which he or she wishes to be alphabetized in.

The current National Law of Education was promulgated in 1991. The Preamble of the Law explains that the former laws of education did not respond to the general and current necessities and interests of the Guatemalan society, nor was it congruent with the 1985 Constitutional principles. It was thus necessary to enact a new Law of Education that would correspond to Guatemala's Constitutional framework as well as to the demands of a democratic, multiethnic, and multicultural society whose foundation is the human being conceived as a historical, irreplaceable, and integral entity.

The National Program for Bilingual Literacy and Post-Literacy was thus launched in 1991, and in 1995, the former 1984 National Program of Intercultural and Bilingual Education (PRONEBI) became the General Department of Intercultural Bilingual Education (DIGEBI)<sup>6</sup> through Governmental Agreement No. 726. In 1996, the office of CONALFA's Bilingual Program was created, and Governmental Agreement No. 225 of 1996 approved CONALFA's educational method for the levels of primary education recognized by the Ministry of Education as follows: first phase of the literacy process for the first grade, the first post-literacy phase for the third grade, and the second post-literacy phase for sixth grade.

In order to improve the management of the education system at a national level, the National Program of Self-Management for Educational Development (*Programa Nacional de Autogestión para el Desarrollo Educativo* – PRONADE) was created in 1992. The purpose of this program was to contribute to the decentralization process of education and introduce innovative community administration systems for the better management of financial resources destined to education. Community Committees of Education were created for such ends. PRONADE works in 20 of Guatemala's 22 departments (King, 2000, p. 35), and reached

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<sup>6</sup> Official DIGEBI website: <http://www.mineduc.gob.gt/DIGEBI/>

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465,000 children by 2008, most of them in poor areas with majority indigenous populations (UNESCO, 2011, p. 223).

On March 31<sup>st</sup>, 1995 the Agreement on the Identity and Rights of Indigenous Peoples<sup>7</sup> was signed in Mexico D.F. Under this agreement, the Government commits to carry out a Constitutional reform that reflects Guatemala's realities, i.e. that declares the country as a united nation that is multiethnic, multicultural, and multilingual. The reform that is promoted under the agreement reflects the urgent necessity of making education more cultural and linguistically diversified within a system that strengthens indigenous cultural identity and the values and educational systems of the Mayan people as well as of other indigenous peoples, and allows them access to formal and non-formal education (Section II, G).

After the Civil War turmoil, an educational reform was established by Guatemala's Peace Accords in 1996. Those accords contributed to the recognition of the need for inclusive education, i.e. one that respects and responds to the interests and necessities of indigenous peoples. The Accords explicitly recognized the injustices carried out against indigenous peoples that had fuelled the conflict, and set out wide-ranging commitments to tackle the legacy of inequality, social marginalization and political exclusion. This same year, Guatemala ratified ILO's Convention No. 169 of 1989 (i.e. The Indigenous and Tribal Peoples Convention).

A Commission for Education Reform was established in 1997 with Governmental Agreement No. 262 of 1997, which involved both national political and indigenous leaders. The commission developed proposals for reforming the teaching of languages and intercultural education. The Mayan Language and Culture Initiative was later launched to promote the use of indigenous languages in school and to strengthen the role of the education system in promoting multiculturalism (UNESCO, 2011, p. 241).

This framework gave way to the Educational Reform Design (*Diseño de Reforma Educativa*) stipulated by the Joint Commission of Educational Reform (*Comisión Paritaria de Reforma Educativa*) of 1998. The Design and the Commission led to the creation of the long-term National Plan of Education (*Plan Nacional de Educación de largo plazo 2000-2020*) of 1999, which set the goals to create a new type of citizen that reflects solidarity and pluralism, improve the quality of education, and promote participatory democracy, human rights, dialogue, non-discrimination, the culture of peace and the peaceful resolution of conflicts, all by 2020. This vision is also reflected in both the 2004-2007 National Plan of Education and the 2004-2023 long-term National Plan of Education. Furthermore, the General Law of Decentralization (Decree No. 14 of 2002) gives priority to the decentralization of the governmental function of education (Article 7).

Indigenous peoples were thus a driving agent not only during the Guatemalan Civil War, but significantly within the evolutionary process of education in the country. It is estimated that about 150,000 indigenous peoples died due to the counterinsurgency, about one million of them were displaced from their communities without leaving the country, and about 40,000 took refuge in Mexico and other nearby countries (Morales, 1999, p. 430). The report published by the Commission for Historical Clarification (*Comisión para el Esclarecimiento Histórico*), called Memory of Silence (*Memoria del Silencio*), estimated that 83 percent of the Civil War

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<sup>7</sup> The 1995 Agreement:

<http://www.guatemalaun.org/bin/documents/Acuerdo%20Pueblos%20Ind%C3%ADgenas.pdf>

victims were Mayan and 17 percent were *ladinos*. Moreover, the war itself affected school attendance more in indigenous populated areas affected by the conflict than in the non-indigenous population areas, for indigenous people averaged three years fewer in school than non-indigenous people. The education gap between indigenous people in conflict-affected areas and the rest of the indigenous population increased from 0.4 years to 1.7 years over the conflict period (UNESCO, 2011, p. 136).

## **The Right to Education and its Principles (Preamble and Articles 3-5 of the CDE)**

Article 74 of the 1985 Guatemalan Constitution makes education compulsory by establishing that all of Guatemala's inhabitants have the right and obligation to receive early, pre-primary, primary and basic education within the age limits set by the law.

Article 1 of the Law of Education stipulates that education in Guatemala is founded upon the principle, *inter alia*, of education as a right inherent to the human person as well as a State obligation. Among the obligations of the State are: to provide a free of charge and compulsory education within the age limits set by law, and to address and process individual or collective petitions made by the subjects that participate in the educational process (Article 33). This latter provision gives permission to a person or group to file to the State a case that violates his or her right to education. Thus, not only does this provision represent a guarantee for the defense and protection of the right to education, individually or collectively, but it also bestows the State with the duty to take up the case.

Not only does the State have duties, students have them as well. Other than compulsory schooling as established by Article 74 of the Constitution, Article 34 of the Law establishes that among students' duties is to participate in the educational process in an active, regular, and punctual manner during the stages and phases they are required to do so. Students also have rights, *inter alia*: the respect for their cultural values and inherent human rights; to receive and acquire scientific, technical and humanistic knowledge through an adequate methodology; to receive integral orientation; to be eligible for scholarships and other types of financial aid; to be positively stimulated at all times by his or her educational process; the right to coeducation at all levels; and to be registered in whatever educational establishment that is in conformity with what the Constitution and other legal regulations establish (Article 39).

## **Non-Discrimination (Articles 1-3 of the CDE)**

Article 71 of the Constitution establishes the obligation of the State to provide and facilitate education to its inhabitants without any discrimination whatsoever. The Law of Education establishes that public education centers offer educational services without discrimination to all inhabitants of Guatemala (Article 21), and bestows the State with the duty to provide and facilitate education to its inhabitants without any type of discrimination (Article 33). One of the guiding policies of the National Council of Education is to guarantee the effective access, retention, and graduation of children and youth at all levels of education

within the formal and non-formal education subsystems without any discrimination (National Council of Education, 2010, p.6).

### **Primary and Secondary Education (Article 4 of the CDE)**

Article 74 of the Constitution establishes that all of Guatemala's inhabitants have the right and obligation to receive early, pre-primary, primary and basic education within the age limits set by law, and that the education provided by the State is free of charge. Article 33 of the Law of Education gives the State the obligation to provide a free of charge and compulsory education within the age limits set by law. However, it is Governmental Agreement No. 226 of 2008<sup>8</sup> that establishes that education as a public service is free of charge in all official education centers of preprimary, primary and secondary education, and that students do not have to pay any mandatory or voluntary fees.

### **Higher Education (Article 4 of the CDE)**

Higher Education in Guatemala is regulated by Section V of the 1985 Constitution, as reformed in 1993. Article 82 of the Constitution establishes that the San Carlos University of Guatemala is an autonomous institution with judicial personality, and since it is the only State University it has the competence of managing, organizing, and developing higher education and professional university education in Guatemala.

The University shall promote research in all spheres of human knowledge, and cooperate to the study and solution of national problems. It is regulated by its Organic Law and the regulations that the University promulgates. Article 84 establishes for the University's budget allocation, which shall not be less than 5% of the General Budget of the State's Ordinary Income, and shall increase as the student population increases or as a way to improve academic performance.

Article 85 provides for the creation of private universities, which shall be independent institutions, and shall have judicial personality and the competence to organize and develop higher private education in Guatemala through the Higher Private Education Council created by Article 86. Moreover, universities are exempt from all taxes and other dues without exception, while donations made to universities shall be deducted from the Income Tax (Article 88).

As Article 90 of the Constitution stipulates, the Law on Compulsory Professional Association Decree No. 72 of 2001 (*Ley de Colegiación Profesional Obligatoria Decreto N° 72/2001*)<sup>9</sup> establishes that all university graduates have the obligation to become associated with a union entity, as well as the objectives and coordination of such process.

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<sup>8</sup> Governmental Agreement No. 226 of 2008:

[http://www.mineduc.gob.gt/portal/contenido/menu\\_lateral/leyes\\_y\\_acuerdos/leyes\\_educativas/documents/2008%20226-](http://www.mineduc.gob.gt/portal/contenido/menu_lateral/leyes_y_acuerdos/leyes_educativas/documents/2008%20226-)

[2008%20AG%20La%20prestación%20del%20servicio%20público%20de%20educación%20es%20gratuito.pdf](http://www.mineduc.gob.gt/portal/contenido/menu_lateral/leyes_y_acuerdos/leyes_educativas/documents/2008%20226-2008%20AG%20La%20prestación%20del%20servicio%20público%20de%20educación%20es%20gratuito.pdf)

<sup>9</sup> Law on Compulsory Professional Association Decree No. 72 of 2001:

[http://www.congreso.gob.pe/historico/cip/materiales/mmercante/LEY\\_COLEGIACION\\_PROFESIONAL\\_GUATEMALA.pdf](http://www.congreso.gob.pe/historico/cip/materiales/mmercante/LEY_COLEGIACION_PROFESIONAL_GUATEMALA.pdf)

Article 2 of this Law establishes that all professionals who have graduated from any university of Guatemala shall become associated with a union entity within the six months after the date of graduation, by presenting their professional degree that accredits him or her as a graduate of the corresponding university. The violation of this obligation will be sanctioned with a fine of no more than 1,000 Quetzals fixed and revised by the Directive Junta of the respective professional college.

### **Quality of Education (Article 4 of the CDE)**

It is the responsibility of the Ministry of Education to guarantee the quality of the education provided in all educational centers of the country, whether they are public, private, or ran by cooperatives. The quality of education is based upon education being scientific, critical, participatory, democratic and dynamic. In order to sustain this, it is necessary to facilitate and control the development of essential processes such as planning, evaluation, monitoring and supervision of all educational programs (Article 66).

The Ministry of Education also has the duty to execute the educational research policies, curricular development and staff training in coordination with the National Council of Education and in accordance with the Regulation of this law (Article 67). The National Council of Education was established by Article 12 of the Law of Education, and structurally and functionally instated by Governmental Agreement No. 304 of November 20<sup>th</sup>, 2008. The Council objective is to provide the different sectors and the general population with the educational policies, strategies and actions that should govern education in the country. Within the framework of the National Education System's policies, the Ministry has the responsibility to elaborate the educational development plans in coordination with the National Council of Education, which shall be periodically disseminated and evaluated according to the needs of its execution (Article 68). The evaluation of school performance shall be compulsorily and permanently conducted in periods and systems according to the socio-educational needs of the country, and will be governed by its respective regulation (Article 71).

Thus, Educational Supervision is a technical-administrative function that consults, orients, follows, coordinates, and evaluates the teaching-learning process in the National Education System (Article 72). Its objectives are: to improve the quality of education; to promote commitment with the development of an education that is scientific, democratic, and at the service of the educational community; to promote the efficiency and functionality of the goods and services provided by the Ministry of Education; to foster a supervisory and integrative action that contributes to dignifying the educator; and to promote an efficient and cordial relation among members of the educational community (Article 73 and 74).

Moreover, on June 11<sup>th</sup>, 2008 Governmental Agreement No. 162<sup>10</sup> created the Vice Ministry of Design and Verification of Educational Quality (*Viceministerio de Diseño y Verificación de la Calidad Educativa*), which has the duty to design the National Curriculum

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<sup>10</sup> Governmental Agreement No. 162:

[http://www.mineduc.gob.gt/portal/contenido/menu\\_lateral/leyes\\_y\\_acuerdos/leyes\\_educativas/documents/2008%20162-2008%20AG%20Creación%20del%20Viceministerio%20de%20Diseño%20y%20Verificación%20de%20la%20Calidad%20Educativa.pdf](http://www.mineduc.gob.gt/portal/contenido/menu_lateral/leyes_y_acuerdos/leyes_educativas/documents/2008%20162-2008%20AG%20Creación%20del%20Viceministerio%20de%20Diseño%20y%20Verificación%20de%20la%20Calidad%20Educativa.pdf)



and monitor its implementation, evaluate students' performance, and accredit the quality of the individuals and institutions that participate in the educational process (Article 2).

### **Continuing Education (Article 4 of the CDE)**

Article 2 of the Law establishes the objectives of education in Guatemala, and among them is the promotion and development of adult education. The Education Subsystem is organized in different levels, cycles, grades, and phases in accelerated education for adults with programs structured within the established curricula in a flexible, gradual, and progressive manner in order to achieve the objectives of the national education system (Article 28).

Article 30 establishes the Extracurricular or Parallel Education Subsystem, which is a way to carry out the educational process that the State and institutions provide to the population that has been excluded or has not had access to normal education and to those who have had it but wish to extend it. To make education flexible and accessible to those who wish to continue their education, the Ministry of Education will provide these students with the organization and operation of services that offer alternative ways, free-of-charge education, and distance education (Article 32).

In 1975, the Education Plan of Science and Culture stipulated the necessity of creating an education system parallel to the regular one in order to benefit the 15 years and over population that dropped out of or never enrolled in regular schooling. It is thus that the National Board of Extracurricular Education (*Junta Nacional de Educación Extraescolar*) is created as the key agent of all extracurricular educational processes and coordinator of the non-formal education programs and projects carried out by diverse public institutions (Governmental Agreements 05-17 and 21-75). Moreover, Governmental Agreement No. 13 of 1977, which regulates the Law of Education, establishes that the General Department of Extracurricular Education is in charge of the management, execution, supervision and control of the extracurricular education that the Ministry of Education carries out.

Among the objectives of distance education, is offering the opportunities of studying in the different levels of education and formation, as well as training and professionalization of human resources in specific work areas (Article 55). Article 62 establishes that Adult Accelerated Education is the type of education that offers the opportunity to begin or complete primary education to persons who were never enrolled or never finished, through specific planning, programming and evaluation. Adult Education in Guatemala has traditionally understood as literacy since there is a high percentage of indigenous peoples and *ladinos* that has not had access to basic education, and is thus illiterate. In 1993, about 40.59% of Guatemala's total population was illiterate. According to CONALFA, this percentage was reduced to 31.73% in 1998 (King, 2000, p. 16).

Moreover, the Law of Education establishes "Education by Maturity" (*Educación por Madurez*), which is a type of education that serves as educational complementation for those persons who were never enrolled in secondary education due to socioeconomic reasons by integrating them into the economic, social, political and cultural process of the country. The objectives of this type of education are: to allow the student to develop his or her personality in an integral manner; to organize the knowledge gained by the student to critically interpret

reality; to complement and expand the student's formation; and to socially involve the student in a participatory, conscious, and deliberate manner (Article 65).

Concerning literacy, Article 75 of the Constitution establishes the improvement of literacy as a national urgency and a social obligation, which the State shall organize and promote with all necessary resources. The Law of Education establishes that the State has the duty, *inter alia*, to urgently promote and guarantee literacy by providing and using the necessary means, as well as to promote and support special, diversified and extracurricular education at all levels and areas that merit it (Article 33). The Ministry of Education shall give priority to the literacy programs within the plans of formal and informal or parallel education (Article 99).

The Law on Literacy Decree No. 43 of 1986 (*Ley de Alfabetización*)<sup>11</sup> regulates literacy activities in the country. Based on this law, the National Committee on Literacy (*Comité Nacional de Alfabetización – CONALFA*) was established to develop and implement measures with the aim of eradicating illiteracy. CONALFA's mission is to coordinate at a national level the implementation of the literacy and basic education for youth and adults program in Spanish and other national languages, and its structure and organization are established by the Law on Literacy (Decree No. 43 of 1986 and its Reform 54 of 1999), and the Regulation of the Law on Literacy (Government Agreement No. 137 of 1991)<sup>12</sup>. The Bilingual Literacy and Post-Literacy Program was created in 1991, and since 1992 it has been carried out with the collaboration of some of Guatemala's NGOs and GOs, and with the financial support of UNICEF and technical counseling of the Linguistic Institute of the University of Rafael Landívar. This initiative has led to the development of a bilingual literacy teaching method and the creation of literacy material in indigenous languages, e.g. 18 Mayan languages (King, 2000, p. 32). The objective of the program is to empower individuals to master his or her mother tongue and add to his or her culture the mastering of the Spanish language as a second tongue in order to acquire the ability to listen, speak, read and write in both languages as mother tongues, if possible.

## **Teacher Training (Article 4 of the CDE)**

Article 78 of the Law of Education establishes that the State shall promote the economic, social, and cultural improvement of the teaching staff. The duties of the State are to annually give official colleges, through the Ministry of Education, a minimum of number of places for newly graduated teachers with high performance, good conduct and vocational aptitudes in their studies, as well as encourage educational union organizations and associations that contribute to the improvement and wellbeing of its members (Article 33).

Regarding teacher training, teachers have obligations and rights. Teachers that participate in the educational process have the following obligations, *inter alia*: to update the content of the subject and methodology that he or she teaches and uses; to know his or her ecological environment, the economic, socio-historical, political, and cultural reality of Guatemala in order to achieve congruence between the teaching and learning process and the necessities of national development; to elaborate a periodic and efficient planning of his or her

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<sup>11</sup> The 1986 Literacy Law: [www.conalfa.edu.gt/desc/Ley\\_de\\_alf.pdf](http://www.conalfa.edu.gt/desc/Ley_de_alf.pdf)

<sup>12</sup> Government Agreement No. 137 of 1991: <http://www.iadb.org/Research/legislacionindigena/leyn/docs/GUA-Acuerdo-Gub-137-91-Reglamento-Ley-Alfabetizacion-Document1.doc>

work; and to participate in activities of actualization and pedagogical training (Article 36). Teachers also have the rights: to be eligible for scholarships for their professional improvement; to be stimulated in their scientific researches and literary production; and to actively participate through organizations in the study, discussion, and approval of educational plans, programs and projects (Article 41).

One of the policies of the National Council of Education is to strengthen the training, evaluation, and management of the human resources within the education system by guaranteeing the training, formation, actualization and evaluation of the educational staff (National Council of Education, 2010, p.8).

### **Human Development (Article 5 of the CDE)**

Article 72 of the Constitution establishes that among the goals of education is the integral development of the human person. The teaching of human rights is also declared as a national interest.

The Law of Education establishes that education in Guatemala is founded upon: the respect of human dignity and the effective fulfillment of Human Rights; the integral development and improvement of the human person through a permanent, gradual and progressive process; and the creation of a more just and democratic society (Article 1). Among the objectives of education in Guatemala are: to cultivate and promote the physical, intellectual, moral, spiritual and civic qualities of the population based on a historical process and on the values of respect for the environment and the human person; and to train and induce the teacher to contribute to the strengthening of the authentic democracy and the economic, political, and cultural independence of Guatemala within the international community (Article 2). Thus, the State has the duty to guarantee the integral development of all humans and the knowledge of the country's reality (Article 33).

### **Religious Education and Rights of Parents (Article 5 of the CDE)**

Article 73 of the Constitution declares that the family is the principal source of education and entitles parents to choose their children's education. Article 103 of the Law of Education establishes that religious education is optional in official establishments and may be taught within the regular school schedule without any type of discrimination.

As for parents, the Law bestows them both obligations and rights. Parents have the following obligations regarding the education of their children, *inter alia*: to be guidance counselors of the educational process of their children; to send their children to educational centers in accordance to what is established by Article 74 of the Constitution of Guatemala; to provide their children with the moral and material support necessary for the good development of their educational process; to ensure that their children comply with the obligations established by this law and in the internal regulations of the education centers; to attend meetings and sessions summoned by their education center; and to contribute to the compliance of this law (Article 35). In its stead, rights of parents are, *inter alia*, to choose the education

they consider most convenient for their children, and to request and ensure an efficient education for their children (Article 40).

Moreover, the Law on the Integral Protection of Childhood and Adolescence Decree No. 27 of 2003 establishes that the State must guarantee that parents fulfill their obligation concerning their children's education.

## **Minority Rights (Article 5 of the CDE)**

As explained above in the historical background, Guatemala is considered to be a country that is composed of various linguistic, genetic, cultural and historical groups and peculiarities. In general, four diverse peoples are distinguished: *Xinca*, *Garífuna*, *Maya*, and *Ladino-Mestizo*. The first two of these groups are considered to be minorities (King, 2000 p. 4). Concerning the Xincas, the last two censuses identified their members based on their language: in 1981, the census reported 107 speakers, while in 1994 only 69. However, language is not the only criteria to identify a people, since the Xincas estimate their own population to be composed on 20,000 members (King, 2000 p. 4). The Garífuna represent about 0.07% of the country's population. The Mayan group represents the biggest part of Guatemala's indigenous population, an estimated 61%. According to the Academy of Mayan Languages, the Mayan people are composed of 21 linguistic communities that are also considered to be ethnic groups: *K'iche*, *Popti'*, *Mam*, *Ch'orti'*, *Kaqchikel*, *Achi'*, *Q'eqchi'*, *Sakapulteko*, *Pocompchi'*, *Akateko*, *Q'ánjobal*, *Awakateko*, *Tzutujil*, *Uspanteko*, *Ixil*, *Mopán*, *Poqomam*, *Sipakapense*, *Chuj*, *Tektiteko/Teko*, and *Itzaj*.

The Agreement on the Identity and Rights of Indigenous Peoples<sup>13</sup> was stipulated in Mexico D.F. on March 31<sup>st</sup>, 1995. Article 1.3 establishes that Mayan groups include the *Achi*, *Akateko*, *Awakateko*, *Chorti*, *Chuj*, *Itza*, *Ixil*, *Jakalteco*, *Kanjobal*, *Kaqchikel*, *Kiche*, *Mam*, *Mopan*, *Poqomam*, *Poqomchi*, *Q'eqchi*, *Sakapulteko*, *Sikapakense*, *Tectiteco*, *Tz'utujil* and *Uspanteco*. The Garífuna and Xinca are also recognized, along with the Mayans, as groups that represent integral parts of Guatemala's national unity.

The 1985 Constitution recognizes the right of persons and communities to their cultural identity according to their values, language, and customs (Article 58). The State recognizes, respects, and promotes their life forms, customs, traditions, forms of social organization, the use of their indigenous costume for men and women, languages and dialects (Article 66). Guatemala's official language is Spanish; however, vernacular languages are part of the Nation's cultural heritage (Article 143).

The Preamble of the Law of Education explains that it is necessary to forge an education system that is relevant now and in the future, and therefore, that responds to the social necessities and demands of the country, besides, its multilingual, multiethnic, and multicultural reality requires a regionalized and bilingual process within a administrative structure that is decentralized at a national level. Article 76 of the Constitution establishes the Educational System and Bilingual Education, providing that the administration of the educational system will have to be decentralized and regionalized, and that in schools of

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<sup>13</sup> The 1995 Agreement:

<http://www.guatemalaun.org/bin/documents/Acuerdo%20Pueblos%20Ind%C3%ADgenas.pdf>.

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regions with a predominantly indigenous population, education will have to be provided preferentially in a bilingual manner.

The Law of Education stipulates that education in Guatemala is founded upon, *inter alia*, a multilingual, multiethnic, and multicultural environment in function of the communities that make it up (Article 1). It is thus that Article 56 establishes Bilingual Education (*Educación Bilingüe*), which responds to the characteristics, necessities and interests of the country in places composed of different ethnic and linguistic groups, and it is carried out through programs within the formal and non-formal or parallel education subsystems. Bilingual Education aims to recognize and strengthen the cultural identities and values of linguistic communities (Article 57). Education in the vernacular languages of the zones of indigenous populations will be prominent in all levels and areas of studies (Article 58). Just like Article 18 of the Constitution, Article 93 of the Law of Education establishes that along with its Regulation, this Law will be translated and disseminated in at least four of the country's predominant indigenous languages: *Quiché, Cackchiquel, Kekchí* and *Mam*.

Furthermore, the Law on National Languages Decree No. 19 of 2003 (*Ley de Idiomas Nacionales, Decreto No. 19-2003*) recognizes the use of the Maya, Garífuna and Xinka languages in all their forms, without any restriction in the public and private sphere, in educational, academic, social, economic, political and cultural activities. The Governmental Agreement 22 of 2004 (*Acuerdo Gubernativo 22-2004*) reinforces this latter law by establishing that national languages have to be taught to the students of private and public sectors. Bilingualism has to be part of the National Linguistic Policy.

In regards to education for persons with special needs, the Law of Education establishes "Special Education", which constitutes the educational process that involves the implementation of additional or complementary programs for persons who have deficiencies in their linguistic, intellectual, physical, and sensorial development, and/or that display superior capacities to the average (Article 47). The objectives of Special Education are to encourage the integral development of persons with special educational needs, as well as to promote the integration and normalization of disabled people (Article 48). Thus, the Ministry of Education will promote and support programs, projects and education centers designed to prevent, respond, and integrate special cases, and, the State will destine funds for the functioning of the unit in charge of Special Education within the Ministry of Education (Article 49). Moreover, the Ministry of Education will promote and support the creation of centers and programs of professional orientation and training for the disabled with the aims of encouraging their personal independence and integration in the labor market (Article 51).

According to the Law on Persons with Disabilities Decree No. 135 of 1996, (*Ley de Atención a la personas con Discapacidad*) persons with disabilities should be able to participate in educational services. This law also ensures that persons with disabilities that live in rural areas should have access to education. Ministerial Agreement No. 3613 of 2011 creates the Regulation of this Law, and establishes that Special Education has the function of making the right to education effective for people with special educational needs in the formal and non-formal education systems. Moreover, Ministerial Agreement No. 34 of 2008 approves the inclusive education policy for persons with special educational needs with or without disabilities, which aims to guarantee access to and quality attention in education for children and adolescents with special educational needs with or without disabilities under an equal

opportunities framework and with the goals of facilitating the development of their physical and intellectual skills and capacities.

## **Financing Education**

The Preamble of the Constitution stipulates that a democratic system requires that national education progressively expands its educational services through the integral use of all necessary human and economic resources and through the adequate distribution of the ordinary revenue derived from the State's National Budget for education with the aims of offering equal opportunities to all the country's inhabitants. Article 74 of the Constitution, not only establishes that education provided by the State is free, but also bestows unto the State the duty to provide and promote scholarships and educational credits for students. Governmental Agreement No. 226 of September 12<sup>th</sup>, 2008 reaffirms what the Constitution establishes: Article 1 stipulates that education as a public service is free of charge in all official education centers of preprimary, primary and secondary education, and that students do not have to pay any mandatory or voluntary fees.

Financial duties of the State concerning education are, *inter alia*: to give education priority in the allocation of the National Budget; to increase funding sources for education with priority; to guarantee the functioning of official, private, and pro-cooperative education centers in favor of educational development; to provide the Ministry of Education and students of compulsory schooling with the necessary materials and better levels of nutrition; to provide educational scholarships and credits and other benefits as determined by law; to subsidize free-of-charge private education centers as stipulated by this law; and to construct school buildings and installations for official education centers (Article 33).

The Ministry of Education has the duty to create and promote support programs aimed at improving the health, nutrition and recreation of students at all compulsory school levels (Article 78), and to provide free school materials to all students of all compulsory school levels in the beginning of the academic year (Article 79). It shall also provide and support scholarships for specialization studies in the country or abroad to qualified education workers (Article 86).

Scholarships to carry out studies at all education levels shall be provided to those students that by vocation, school performance, aptitudes, and/or due to the lack of enough financial resources to sustain their studies, merit them (Article 85). The Law goes further in explicitly specifying where the resources for the financial economic regime of the national education come from (Article 89):

1. Financial resources no less than 35% from the ordinary revenues of the State's general budget including other constitutional allocations;
2. Resources deriving from donations, contributions, grants, and any other type of current and capital transfers that come from individual or legal persons, whether international or national. Moreover, transfers from private, individual or legal persons are deductible from their income tax;

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3. Private funds derived from school accounts and self-financing activities carried out by the school community in accordance with Governmental Agreement No. 399 of October 3<sup>rd</sup>, 1968;
4. The funds derived from Operation School's subscription quotas shall be destined to finance the reparation of education centers. These funds are of private character, and shall be managed as such by the Finance Committees of each school;
5. Resources from the municipalities destined to investment and/or performance related programs; and
6. Resources derived from differently financed activities.

Furthermore, Article 102 of the Law of Education bestows the State with the duty to increase the budget allocation for education until it reaches 7% of its Gross Domestic Product in relation to the increase of the school population and the improvement of the country's educational level. This increase is to be conducted annually. As Chapter 2 evidenced, budget allocation for education in Guatemala has been more or less stable overall, and is increasing at a linear pace. On average at a domestic level, Guatemala gives the highest budget allocation priority to education. On average, the budget allocation ranking is as follows: 1<sup>st</sup> Education; 2<sup>nd</sup> Communication and Infrastructure; 3<sup>rd</sup> Health; 4<sup>th</sup> Government; 5<sup>th</sup> Defense; 6<sup>th</sup> Agriculture. At a regional level, Guatemala places 8<sup>th</sup> when it comes to the average amount of the National Budget destined to education (14.33%).

## Chapter 7: Mexico



### Historical Background

The Cádiz Constitution of the Spanish Monarchy, which was promulgated on March 19<sup>th</sup>, 1812, was enforced in Mexico until the 1824 Federal Constitution of the United Mexican States, which was the result of the process towards independence that began in 1810. The Cádiz Constitution stipulated the guidelines for education in articles 131, 132, 335, and from 366 until 370, which made education a function and responsibility of the State, gave the courts the power to establish the general national education plan for public education, established schools and universities under the supervision of the State, and made the teaching of religion in schools compulsory (Schettino Piña, 2003, p. 18). With the 1824 Constitution, the task of organizing and structuring the education system in Mexico was transferred to the National Congress, and in 1833, former President Valentín Gómez Farías delegated unto a national administrator the duty to manage the national fund for public education (Schettino Piña, 2003, p. 20). The 1857 Constitution enshrined the liberty of education and of learning.

However, it was with Article 3 of the 1917 Mexican Constitution, which had established the guidelines of education of the period, and the creation of the Ministry of Education in 1921 that the Mexican education system began to take shape and become an active agent in the developmental process of Mexico's contemporary society. With the gradual social, demographic, economic, political, and cultural transformation of society during the 20<sup>th</sup> century, as well as with the transition from a production-based economy into a more knowledge-based economy, the education system seized to respond to the new and future demands of society (Ministry of Public Education, 2011, p. 5). In order to address the new demands derived from an era of globalization and a more interdependent economic international system, Mexico has adopted international valuable experiences and knowledge on education, its processes, and results in order to improve its own national education system (Ministry of Public Education, 2011, p. 6).

In 1992, the National Agreement for the Modernization of Basic Education in Mexico was launched with the aims of giving momentum to a thorough reform to reorganize the



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national education system. The Mexican society needed to rebuild an education system that was in tune with democracy and the global opening of the economy, thus, one with higher retention and coverage rates, better permanent teacher training, stronger infrastructure, and the consolidation of an authentic educational federalism.

Hence, Basic Education in Mexico, which includes the levels of preschool, primary, and secondary, has been experiencing a process of contemporary reform since the turn of the 21<sup>st</sup> century. On November 8<sup>th</sup>, 2002 former Mexican President Vicente Fox Quesada issued the Decree<sup>1</sup> by which paragraph I, Fractions III, V, and VI of Article 3 and Fraction I of Article 31 are added to the Mexican Constitution. This amendment enshrines the right to education for all, and bestows the State (i.e. the Federation, States, Federal District, and municipalities) the duty of providing preschool, primary and secondary education, which are compulsory (Article 3), and establishes that parents have the obligation to make sure that their children attend public or private schools (preschool, primary, secondary, upper secondary, and military) in accordance with the law (Article 31). The reform continued by levels:

- **Preschool**<sup>2</sup>: On December 6<sup>th</sup>, 2004 President Fox Quesada issued the Decree<sup>3</sup> by which the provisions concerning preschool education in the General Law of Education are reformed in accordance with the 2002 Constitutional amendment.
- **Primary**<sup>4</sup>: On August 10<sup>th</sup>, 2010, the Minister of Public Education, Alonso Jose Ricardo Lujambio Irazabal, issued Agreement No. 540<sup>5</sup> which modernizes the 1993 established study plans and programs for primary education.
- **Secondary**<sup>6</sup>: On May 11<sup>th</sup>, 2006, the Minister of Public Education Reyes Tamez Guerra, issued Agreement No. 384<sup>7</sup> which establishes the new study plan and programs for secondary education.

Since part of UNESCO's role is to create specialized knowledge and expertise as well as to encourage the creation of alliances aimed at strengthening leadership and national capacity to provide quality education for all, in 2009, the UNESCO office in Mexico and the Secretariat of Basic Education stipulated an agreement to carry out the first phase of the evaluation of the implementation of the comprehensive reform of primary education in Mexico. UNESCO, with the collaboration of the International Bureau of Education, provided the Secretariat with various resources, tools, analysis and materials of information that contribute to developing the skills of specialists, professionals, and decision-makers, within

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<sup>1</sup> The 2002 Decree: <http://www.reformapreescolar.sep.gob.mx/NORMATIVIDAD/decreto/decreto.HTM>

<sup>2</sup> For the various regulations reforming preschool education please consult:  
<http://basica.sep.gob.mx/reformaintegral/sitio/index.php?act=prenorma>

<sup>3</sup> The 2004 Decree:  
<http://basica.sep.gob.mx/reformaintegral/sitio/pdf/preescolar/normatividad/DecretoReformaDisposiciones.pdf>

<sup>4</sup> For the various regulations reforming primary education please consult:  
<http://basica.sep.gob.mx/reformaintegral/sitio/index.php?act=prinorma>

<sup>5</sup> The Agreement No. 540 of 2010:  
<http://basica.sep.gob.mx/reformaintegral/sitio/pdf/primaria/normatividad/Acuerdo540Completo.pdf>

<sup>6</sup> For the various regulations reforming secondary education please consult:  
<http://basica.sep.gob.mx/reformaintegral/sitio/index.php?act=secnorma>

<sup>7</sup> The Agreement No. 384 of 2006:  
<http://basica.sep.gob.mx/reformaintegral/sitio/pdf/secundaria/normatividad/Acdo384.pdf>

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the framework of the developmental processes of improving the quality of Mexico's national curriculum. UNESCO and the Pedagogy Faculty of the Diego Portales University of Chile collaborated in conducting the evaluation of the Comprehensive Reform of Basic Education (*Reforma Integral de la Educación Básica – RIEB*)<sup>8</sup> for the 2009-2010 academic year (UNESCO Office in Mexico, 2012).

The above mentioned reforms led the Ministry of Education to issue Agreement No. 592<sup>9</sup> of 2011, which defines the educational trajectory for Basic Education in Mexico in accordance with the Constitution and the General Law of Education, with the purpose of disseminating the educational foundations and the educational public policy that underpins the 2011 curriculum for basic education<sup>10</sup> among primary and secondary educators and teachers, directors, supervisors, chiefs of sections, educational technical support, state authorities, students, parents, scholars, researchers, experts and society in general. These measures, along with the National Development Plan 2007-2012<sup>11</sup> and the Education Sector Program 2007-2012<sup>12</sup>, constitute the framework and guidelines of educational policies in Mexico for the first half of the 21<sup>st</sup> century.

Overall, the RIEB, which began with the amendment of Article 3 and 31 of the Mexican Constitution, has served to enhance and modernize the General Law of Education (hereinafter: the Law), which was enacted on July 13<sup>th</sup>, 1993 and was last amended on April 9<sup>th</sup>, 2012. This Law repeals the 1973 Federal Law of Education, the 1945 Law of School Savings, the 1963 Law that establishes Normal Education for teachers of job training centers, and the 1975 National Law of Adult Education.

Like Bolivia and Colombia, Mexico is not State Party to the CDE. And just like Bolivia and Colombia, Mexico has become State Party, and is thus compromised, to other legally-binding international normative instruments that enshrine the right to education within their legal framework:

- The International Convention on the Elimination of All Forms of Racial Discrimination of 1965 (ratification: 20/02/1975)
- The International Covenant on Economic, Social and Cultural Rights of 1966 (ratification: 23/03/1981)
- The American Convention on Human Rights “Pact of San Jose, Costa Rica” of 1969 (ratification: 24/03/1981)
- The Convention on the Elimination of Discrimination against Women of 1979 (ratification: 23/03/1981)
- The Indigenous and Tribal Peoples Convention of 1989 (ratification: 05/09/1990)
- The Convention on the Rights of the Child of 1989 (ratification: 21/09/1990)

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<sup>8</sup> Official website for the RIEB: <http://basica.sep.gob.mx/reformaintegral/sitio/index.php?act=rieb>

<sup>9</sup> The Agreement No. 592 of 2011:

[http://basica.sep.gob.mx/reformaintegral/sitio/pdf/secundaria/normatividad/Acuerdo\\_592.pdf](http://basica.sep.gob.mx/reformaintegral/sitio/pdf/secundaria/normatividad/Acuerdo_592.pdf)

<sup>10</sup> The 2011 curriculum for basic education: <http://basica.sep.gob.mx/dgdc/sitio/pdf/PlanEdu2011.pdf>

<sup>11</sup> The National Development Plan: <http://basica.sep.gob.mx/reformaintegral/sitio/pdf/marco/PND2007-2012.pdf>

<sup>12</sup> The Education Sector Program: <http://basica.sep.gob.mx/reformaintegral/sitio/pdf/marco/PSE2007-2012.pdf>

## **The Right to Education and its Principles (Preamble and Articles 3-5 of the CDE)**

Article 3 of the Constitution enshrines the right to education for all, and bestows unto the State (i.e. the Federation, States, the Federal District, and municipalities) the duty of providing preschool, primary and secondary education, which are compulsory. Parents have the obligation to make sure that their children attend public or private schools (preschool, primary, secondary, upper secondary, and military) in accordance with the law (Article 31).

The General Law of Education also enshrines the right to education; and thus, all inhabitants of the country have equal opportunities to access the national education system in accordance to the requisites established by the Law (Article 2). The education provided by the State is free of charge, and donations destined to such education shall not be construed as tradeoffs of the education system (Article 6). State education is thus a public service (Article 10).

One of the objectives of State education, *inter alia*, is to disseminate the rights and duties of boys, girls, and adolescents along with the forms of protection available to them in order to exercise them (Article 7). It is the duty of those who benefit from the educational services to carry out social service, in accordance with the respective regulation (Article 24). Social service constitutes as a requisite to obtain an academic diploma or degree.

The Law further establishes that education authorities shall take the necessary measures to establish the conditions that will allow the full exercise of the right to education of each individual, a greater educational equality, and the effective equality of opportunities to access and remain in educational services (Article 32). These measures are preferably destined to the groups and regions that have higher educational setbacks or that are confronted with disadvantaged economic and social conditions. These provisions represent a further engagement on behalf of the State and its federal entities to specifically target vulnerable and marginalized groups.

In order to achieve what this previous article established, competent education authorities shall, *inter alia*, develop programs with a gender perspective; provide scholarships and other type of financial aid preferably to students that are faced with economic and social conditions that impede them from exercising their right to education; aid programs such as food and health campaigns; and other measures that aim to combat the social conditions that restrict equality of opportunities to access and remain in the educational services (Article 33).

The Law also provides for a *modus operandi* to sanction the violation of the rights and duties established in the Law itself. Should any of the municipal councils of social participation in education perceive the probable commission of a crime against students, they shall request for the education authorities as a preventive measure the temporary suspension of the teaching staff and administrative activities involved up until further clarification from the corresponding authority after hearing the parties involved (Article 73). Such suspension shall not affect the employment benefits that apply. Violations will be sanctioned with: 1) a fine equivalent to five thousand times the daily general minimum wage in force in the geographic area where and on the date of when the violation was committed, and can be doubled in case of offense reoccurrence; or 2) the revocation of the permit or the withdrawal of the official validity of the respective studies (Article 76).

### **Non-Discrimination (Articles 1-3 of the CDE)**

Article 3 of the Constitution establishes that the criteria guiding education shall be based on the results of scientific progress, and will combat against ignorance and its consequences, servitudes, fanaticism, and prejudices. The criteria shall therefore be democratic, national, and shall contribute to a better human coexistence that cares about sustaining the ideals of fraternity and the equality of human rights by preventing privileges based on race, religion, groups, gender, or of individuals. This Constitutional article is reflected in Article 8 of the Law of Education, which establishes that the criteria guiding the education provided by the State and its decentralized organs (e.g. preschool, primary, secondary, normal, teacher training education) shall be based on the results of scientific progress, and shall combat against ignorance and its consequences, servitudes, fanaticism, and prejudices, the formation of stereotypes, as well as discrimination and violence that is especially carried out against women, girls, and boys. Such education will contribute to a better human coexistence that cares about sustaining the ideals of fraternity and the equality of human rights by preventing privileges based on race, religion, groups, gender, or of individuals.

It is the duty of State educational institutions to create indicators that measure the progress of the application of the methods to prevent and eliminate whatever type of discrimination and violence, with the purpose of being subjected to evaluation (Article 30).

The Law considers the following to be violations by those who provide educational services: to expel or negate to provide educational services to girls, boys, and adolescents that display learning disabilities; to limit their admission or retention in school by making them undergo specific medical treatments; and to pressure parents or guardians to go to specific doctors or clinics to address the students' learning disabilities (Article 75).

### **Primary and Secondary Education (Article 4 of the CDE)**

As seen above, Article 3 of the Constitution enshrines the right to education and establishes compulsory schooling for the preschool, primary, and secondary levels, and, that all education provided by the State shall be free of charge. Hence, the Law of Education establishes that the State has the obligation to provide educational services in order for all of the population to be able to pursue preschool, primary, and secondary education (Article 3). Likewise, all inhabitants of the country must attend preschool, primary, and secondary education, and, Mexicans have the obligation to make sure that their daughters, sons or minor pupils attend preschool, primary, and secondary education (Article 4).

The National Institute for the Evaluation of Education has reported that about 460,000 children of ages 4-5 were excluded from state education in 2008; 230,000 children of ages 6-11 from primary education; and 572,000 children of ages 12-12 from secondary education. The number for out of school preschool children represents 11.4% of the population of the indicated ages, 1.7% for primary, and 8.4% for secondary. Concerning upper secondary, out of school adolescents of ages 15-17 were 2 million 380 thousand in 2008. Even though these data indicate an improvement in access to education in comparison to the past, there is still

work to be done in order to reach 100% coverage, especially in isolated and indigenous zones (INEE, 2010, p. 53).

### **Higher Education (Article 4 of the CDE)**

Article 3 of the Constitution further stipulates that the State shall promote and provide all kinds of education, from preschool until higher education, that are necessary for the development of the nation, will support scientific and technological research, and will encourage the strengthening and dissemination of the Mexican culture. However, the educational social function of universities and other higher education institutions will be regulated by their respective laws (Article 1).

Hence, the Law on the Coordination of Higher Education<sup>13</sup> was adopted on December 29<sup>th</sup>, 1978, which establishes the guidelines for the distribution of the educational function of higher education in the Federation, States, and municipalities, as well as its corresponding financial allocations with the aims of developing and coordinating higher education (Article 1). This Law bestows the Federation, the States and the municipalities with the duty to provide the public service of higher education in accordance with this Law and the General Law of Education (Article 8). The Federation has the duty to support higher education through the allocation of federal public resources (Article 12); however, they depend on national priorities, teaching needs, and the research and cultural dissemination from public institutions of higher education (Article 21).

### **Quality of Education (Article 4 of the CDE)**

The Technical National Council of Education and its corresponding federal entities have the following functions: carry out research, studies, and technical and pedagogical analysis about study plans and programs, content, methods, study and teaching materials, as well as materials that support the educational process, methods and instruments of evaluation, space design, furniture and equipment, and in general, all other elements that make up the basic education curriculum and the factors that affect the quality of services; permanently follow-up the functioning of the quality of basic educational services and measuring results, and propose to the education authorities the possible technical measures and reforms that they retain pertinent; provide a well-grounded opinion concerning study plans and programs proposed by the competent authority, the actualization of text books, teaching books and materials, and the educational content, as well as the academic requisites of study plans and programs of privates (Article 11).

The Federal education authority has the exclusive competence of determining for the entire Republic the study plans and programs for preschool, primary, secondary, normal, and teacher training education (Article 12). The Ministry of Education has the duty of carrying out the evaluation of the national education system, without prejudice to the competences of local

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<sup>13</sup> The Law on the Coordination of Higher Education: <http://www.diputados.gob.mx/LeyesBiblio/pdf/182.pdf>

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education authorities (Article 29). These evaluations are systematic and permanent. Education authorities have the duty of sharing with teachers, students, parents and the general society the results of the evaluations they carry out, as well as other global information that allows measuring the development and progress of education in each federal entity (Article 31). Education authorities will thus, *inter alia*, carry out other activities aimed at improving the quality and expand the coverage of educational services (Article 33).

It is upon the Ministry of Education to carry out systematic and continuous revisions and evaluations of the above mentioned study plans and programs in order to permanently maintain them updated, at least every four years concerning regular education and the training of basic education teachers (Article 48).

Each municipality will operate a municipal council of social participation in education composed of municipal authorities, parents and representatives of their associations, distinguished teachers and directors, representatives of teacher union organizations, and representatives of civil society organizations competent in education and are interested in improving it. The council has the duty, *inter alia*: to manage the improvement of educational services, the construction and expansion of public schools and other projects of educational development in the municipality; to follow-up of the municipality's basic education public school activities (Article 70). This latter article bestows the municipal president the responsibility to make sure that the council achieves an effective social participation that can contribute to increasing the quality and coverage of education, and the dissemination of programs aimed at preventing crimes committed against girls, boys, and adolescents or against those individuals that do not have the capacity to understand the significance of the crime or to resist it. Overall however, it is the Ministry of Education that shall oversee the results of the evaluations that education authorities conduct, know the development and evolution of the national education system, opinion about pedagogical concerns, study plans programs, as well as propose the policies to improve the quality and coverage of education (Article 72).

Moreover, the Presidential Decree of August 7th, 2002<sup>14</sup> promulgated by President Vicente Fox Quesada created the National Institute for the Evaluation of Education (*Instituto Nacional para la Evaluación de la Educación*; INEE), which was reformed by Presidential Decree of May 15<sup>th</sup>, 2012<sup>15</sup> under President Felipe de Jesús Calderón Hinojosa. The INEE aims to create, provide, and disseminate information and knowledge that allows federal and local education authorities evaluate different components, processes, or results of the National Education System within its field of competences in order to make decisions that contribute to the improvement of its quality (Article 2).

The programs, services, and actions that the INEE conducts are on the evaluation of compulsory schooling, i.e. both public and private basic education (preschool, primary, and secondary education), upper secondary education, teacher training, adult education, special education, and indigenous education (Article 3). The INEE's mission is thus to contribute to the improvement of education in Mexico by conducting comprehensive assessments on the

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<sup>14</sup> Presidential Decree of 2002:

[http://www.sep.gob.mx/work/models/sep1/Resource/5f081c03-5ef8-415b-a1df-35b660088c24/decreto\\_inee.htm](http://www.sep.gob.mx/work/models/sep1/Resource/5f081c03-5ef8-415b-a1df-35b660088c24/decreto_inee.htm)

<sup>15</sup> Presidential Decree of 2012: [http://www.sep.gob.mx/work/models/sep1/Resource/5f081c03-5ef8-415b-a1df-35b660088c24/decreto\\_inee\\_reforma.pdf](http://www.sep.gob.mx/work/models/sep1/Resource/5f081c03-5ef8-415b-a1df-35b660088c24/decreto_inee_reforma.pdf)

quality of the entire education system, as well as to the timely and transparent dissemination of results with the aims of supporting decision making processes of educational improvement in schools and of accountability, making it an essential tool for the quality of education in Mexico. On August 8<sup>th</sup>, 2002 federal and local authorities and Mexican teachers stipulated the Social Compromise on the Quality of Education aiming to transform the national education system in the new 21<sup>st</sup> century context.

Moreover, on May 15<sup>th</sup>, 2008 the Federal Government and Mexican teachers represented by the National Union of Education Workers (*Sindicato Nacional de Trabajadores de la Educación*), founded the Alliance for the Quality of Education<sup>16</sup> (*Alianza por la Calidad de la Educación*) in order to carry out a curricular reform oriented towards the development of skills and competences through updating the content of Basic Education, teaching English starting from preschool, professionalizing teachers and education authorities, evaluating and monitoring the quality of education, promoting transparency and accountability, encouraging education policies, and modernizing infrastructure and equipment (Ministry of Public Education, 2011, p. 9).

### **Continuing Education (Article 4 of the CDE)**

Article 33 of the General Law of Education bestows to education authorities the duty, *inter alia*: to provide education services to serve those individuals who abandoned the regular education system and find themselves lagging behind in order for them to be able to conclude their basic education by facilitating their access, re-entry, retention, and graduation, especially to women; to establish distance education systems; and to carry out education campaigns that aim to increase the cultural, social and welfare levels of the population, such as literacy programs and community education.

The Law also provides for Adult Education, which is intended for individuals of 15 years or older that have not enrolled or attended primary and secondary education, and it is provided through literacy services, primary and secondary education, and job training (Article 43). The State and its entities shall thus organize permanent services of advocacy and counseling for adult education, and shall provide the necessary facilities for workers and relatives to study and be accredited for preschool, primary, and secondary education (Article 44).

On August 31<sup>st</sup>, 1981 former President Jose Lopez Portillo issued the Decree<sup>17</sup> which created the National Institute for Adult Education (*Instituto Nacional para la educación de los adultos* – INEA), Mexico's decentralized institution that has institutionalized an adult education model at a national level. INEA's mission is to contribute so that youth and adults of 15 years and over can have more opportunities to improve their life conditions by offering adults basic education and better support to allow them to develop their skills and competences for life and work.

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<sup>16</sup> The Alliance: <http://basica.sep.gob.mx/reformaintegral/sitio/pdf/marco/ACE.pdf>

<sup>17</sup> The 1981 Decree which created the INEA:

[http://www.inea.gob.mx/transparencia/pdf/marco\\_normativo/D01.pdf](http://www.inea.gob.mx/transparencia/pdf/marco_normativo/D01.pdf)

In order to achieve this, the INEA carries out the Education for Life and Work Model program (*Modelo Educación para la Vida y el Trabajo – MEVyT*), as well as the New Focus on Basic Education Model program for children between the ages of 10 and 14 who did not start or continue primary education (*Modelo Nuevo Enfoque de Educación Básica para primaria de jóvenes 10-14 – NEEBA*). The INEA's infrastructure is composed of 144,000 attention centers in the 31 federal entities and the Federal District, 123,709 study circles, 18,189 meeting points, and 2,508 community plazas. The Community Plazas initiative represents another element of INEA's overall educational strategy. These plazas are located in rural and peripheral urban locations around the country and are equipped with computers, Internet connection, a video library and a range of other media (Valdes, 2009). The INEA serves about 2.4 million people a year, and from 2006 until 2010 the Indigenous Bilingual MEVyT (MIB) was extended unto 17 of Mexico's federal entities<sup>18</sup> (INEA, 2010). The INEA counts on literacy materials in 46 indigenous languages and on The Word (*La Palabra*) and mathematical modules<sup>19</sup> to carry out its literacy mission.

Other governmental institutions that contribute to the national literacy mission include the Centres for Adult Basic Education, night schools, cultural missions, the National Council for the Promotion of Education, and civil society organizations. Furthermore, Cuba's *Yo, Sí Puedo* method has been running in a number of municipalities in seven of Mexico's 32 states (Valdes, 2009). According to the 2005 census, the illiteracy rate among indigenous groups, which represent 10% of the total population, was 36.1% compared to the national illiteracy rate of 8.4%. The illiteracy rate among indigenous women was even higher (Valdes, 2009).

## **Teacher Training (Article 4 of the CDE)**

Article 13 of the Law of Education stipulates that local education authorities have the exclusive duty to provide, *inter alia*, education for teacher training, as well as services of professional training, actualization, formation, and improvement for basic education teachers in accordance with the general dispositions established by the Ministry of Education. Education authorities, within their respective field of competence, shall constitute the national system of professional formation, actualization, training, and improvement for teachers with the purpose of providing continuous formation, the actualization of knowledge and improvement of teachers (Article 20). The Law further bestows teachers the status of promoter, coordinator, facilitator, and protagonist of the educational process, and assigns to education authorities the duty to provide them with the means that will allow them to effectively carry out their job and will contribute to their constant improvement (Article 21).

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<sup>18</sup> These 17 federal entities are: Chiapas, Campeche, Chihuahua, Durango, Guerrero, Hidalgo, México, Michoacán, Oaxaca, Puebla, Querétaro, Quintana Roo, San Luis Potosí, Veracruz, Yucatán, Tabasco and Nayarit.

<sup>19</sup> For more information on the literacy modules, please consult:  
<http://www.inea.gob.mx/index.php/educacionabc/educadulalfabc.html>



## **Human Development (Article 5 of the CDE)**

Article 1 of the Constitution stipulates that the education provided by the State shall be aimed at developing all the faculties of the human being and fomenting in them the principles of love for the Nation, a conscience of international solidarity, independence, and justice. Education shall contribute to the improvement of human coexistence, since it provides appreciation for human dignity, family integrity, and the general interest of society, as well as fraternity and equal human rights for all while avoiding any privileges based on race, religion, groups, gender or individuals. Education is a fundamental means to acquire, transmit, and enhance culture. It is a permanent process that contributes to the permanent development of the individual and to the transformation of society. It is also a determining factor for the acquisition of knowledge and to educate women and men so that they may have a sense of solidarity and social responsibility.

Human development begins from birth. The General Law of Education stipulates that early childhood education has the aims of favoring the physical, cognitive, affective, and social development of children that are less than 4 years old. Preschool education includes orientation for parents or guardians in order to aid them in the education of their daughters, sons, or pupils (Article 40). Overall however, Article 7 establishes that education shall have the following objectives, *inter alia*: contribute to the holistic development of the individual in order for him or her to be able to fully and responsibly exercise their human capacities; favor the development of the faculties necessary to acquire knowledge, such as the capacities of observation, analysis, and critical reflection; promote the value of justice, observance of the rule of law, equality among individuals, respect for human rights, as well as a culture of legality, peace and non-violence in all its forms; develop attitudes of solidarity among individuals and raise awareness about the preservation of health, the responsible exercise of sexuality, family planning, and responsible parenting, as well as liberty and the absolute respect of human dignity; promote the rejection of vices and addictions by fomenting the knowledge of its causes, risks, and consequences; instill the fundamental concepts and principles of environmental science, sustainable development, climate change prevention, as well as the appraisal of environmental protection and conservation as essential elements to the harmonious and holistic development of the individual and society; foment the values and principles of cooperation; disseminate the rights and duties of boys, girls, and adolescents along with the forms of protection available to them for their exercise.

## **Religious Education and Rights of Parents (Article 5 of the CDE)**

Article 31 of the Constitution bestows unto Mexicans the duty to make sure that their children or pupils attend public or private schools to receive preschool, primary, secondary, upper secondary and military education in accordance with the law. It is thus that the General Law of Education gives Mexicans the obligation to make sure that their underage daughters, sons, or pupils attend preschool, primary, and secondary education (Article 4). More specifically, it gives rights and duties to those exercising parental authority or guardianship: they have the right to obtain enrollment in public schools in order for their underage

daughters, sons, or pupils, that satisfy the applicable requirements, receive preschool, primary, and secondary education (Article 65); while it is their duty to make sure that their underage daughters, sons, or pupils receive preschool, primary, and secondary education, to support the educational process of their daughters, sons, or pupils, as well as to make the education authority of the school aware of the irregularities committed by the administrative or academic staff that cause emotional harm, damages, or changes in the student (Article 66).

Education authorities have the duty, *inter alia*, to carry out programs for parents that will allow them to give better attention to their daughters and sons, as well as to support and develop programs destined for parents and/or guardians to equally support the studies of their daughters and sons by paying special attention to the necessities that those who realize how important it is for girls to receive equal treatment and the same educational opportunities as boys do (Article 33).

Concerning religion, the education provided by the State shall be secular, and shall thus remain separated from any religious doctrine (Article 5).

### **Minority Rights (Article 5 of the CDE)**

Article 2 of the Constitution recognizes and guarantees the right of peoples and indigenous communities to self-determination, and thus to the autonomy to decide their own internal forms of social, economic, political and cultural coexistence and organization, as well as preserve and enrich their languages, knowledge, and all other elements that constitute their identity. In order to combat the lacks and deficiencies that affect indigenous peoples and communities, competent authorities have the obligation: to promote the regional development of indigenous zones with the purpose to strengthen their local economies and improve the life conditions of their peoples through actions coordinated among the three branches of government and the participation of the community; to equitably determine the budget allocation that the communities will directly manage with specific ends; to guarantee and increase the levels of schooling by favoring bilingual and intercultural education, literacy, completion of basic education, productive training, and upper secondary and higher education; to define and develop educational programs of regional content that recognize the heritage of their peoples in accordance with the corresponding laws and in consultation with the indigenous communities; and to encourage the respect and knowledge of the different cultures that exist in the nation.

The education provided by the State has the purpose, *inter alia*, of strengthening the awareness of Mexican nationality and sovereignty, appreciation of history, national symbols and institutions, the value of traditions and cultural peculiarities of the different regions of the country, as well as promoting the knowledge of the Nation's multilingualism and the respect for the linguistic rights of indigenous peoples (Article 7). This latter article also establishes that those who speak indigenous languages shall have access to compulsory education in their own language and in Spanish.

Education authorities have the duty, *inter alia*: to especially care for schools that are isolated, in marginal urban zones, or in indigenous communities through the allocation of elements of better quality to combat educational difficulties that these schools may face, since

they have a higher chance of lacking behind and having a high drop-out rate; to develop support programs for teachers that provide their service to isolated and urban marginalized zones; to provide pedagogical support to groups with specific educational needs, such as programs aimed at recovering delays of students in school achievement; as well as to provide educational materials in indigenous languages to the schools with a majority of indigenous students (Article 33). The Law further specifies that basic education shall have the necessary adaptations required to respond to the linguistic and cultural characteristics of each of the diverse indigenous groups of the country, the dispersed rural population and migrant groups (Article 38).

It is thus that on March 10<sup>th</sup>, 2003 the Mexican Congress promulgated the General Law of Linguistic Rights of Indigenous Peoples (*Ley General de Derechos Lingüísticos de los Pueblos Indígenas*)<sup>20</sup>, which was lastly reformed in 2012. Article 11 stipulates that Federal education authorities and federal entities have the duty to guarantee that indigenous populations have access to an education that is compulsory, bilingual, and intercultural, and to adopt the necessary measures in order for the education system to secure the respect to the dignity and identity of people regardless of their language. Interculturality, multilingualism, and the respect for diversity and linguistic rights will be provided for in the upper secondary and higher education levels. This Law creates the National Institute of Indigenous Languages, whose mission is to promote the strengthening, preservation, and development of the indigenous languages that are spoken within the national territory, as well as the knowledge and enjoyment of the Nation's cultural richness. The Institute shall also advise the three branches of government in order to articulate public policies needed in this area (Article 14).

Depending on the specific educational needs of the population, education with particular programs and content shall be provided by the education system in order to address such needs (Article 39). Article 41 of the Law provides the framework for Special Education, which is destined to persons that are temporarily or permanently disabled, or have gifted skills. Special Education shall take care of the students in an appropriate manner upon their conditions with inclusive social equity and a gender perspective. Concerning underage children with disabilities, such education will encourage their integration unto the regular basic education system through the application of specific methods, techniques and materials. For those who do not achieve integration, such education will make sure to satisfy the basic learning needs for social autonomous coexistence through the necessary programs and materials of educational support.

With regards to the educational identification and attention of students with gifted capacities and aptitudes, the federal education authority shall establish the guidelines for the diagnostic evaluation, pedagogical models and accreditation and certification mechanisms necessary in the basic education levels, as well as in normal, upper secondary, and higher education. Autonomous higher education institutions can establish agreements with the federal education authority in order to standardize the criteria for the attention, evaluation, accreditation and certification of gifted students. Special education also includes orientation of parents or guardians, teachers, and basic education staff that collaborate in the integration of students with special educational needs.

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<sup>20</sup> The General Law of Linguistic Rights of Indigenous Peoples:  
<http://www.diputados.gob.mx/LeyesBiblio/pdf/257.pdf>

## **Financing Education**

Article 9 of the General Law of Education stipulates that it is the duty of the State to provide preschool, primary, and secondary education, and promote early childhood, special, upper secondary, and higher education and scientific and technological research through financial support or any other means. Article 25 establishes the annual amount that the State (i.e. the Federation, federal entities, and municipalities) shall destine to the public education spending and educational services. This amount shall not be less than 8% of the National Gross Domestic Product, out of which at least 1% of this amount shall be destined to scientific research and technological development within the Public Higher Education Institutions. The budget allocation for each education level shall be given continuity and concatenation among each other so that the population may reach the maximum academic level possible.

Article 25 further stipulates that the government of each federal entity shall publish their budget allocation for education in their respective Official Gazette in a disaggregated manner by level, educational program and establishment. The local government shall provide all the facilities and collaboration in order for the Federal Executive Branch to be able to verify the correct application of such resources, and in case they are not, a respective law stipulates for the administrative, civil, and penal responsibilities involved. The Executive Branch and the government of each federal entity have the responsibility to take in consideration the priority of public education for national development when allocating the budget (Article 27). At all times, they shall endeavor to strengthen the sources of funding for education and destine budget allocations for public education at an increasing rate.

It is the responsibility of local education authorities to distribute free school text books and other complementary educational materials provided by the Ministry of Education in an opportune, complete, objective, and efficient manner (Article 19). The investments in education made by the State, its decentralized entities, and privates are of social interest (Article 28).

The Executive Branch has the duty to carry out compensatory programs that aim to provide support with specific resources to the governments of those federal entities with higher educational setbacks, through the stipulation of agreements that establish the budget allocation and the specific actions to reduce and overcome the educational setbacks of these areas (Article 34).

As Chapter 2 evidenced, the education budget allocation has not been constant since 2000. From 2000 until 2004, the average percent has fluctuated between 6-7%. Both in 2005 and 2006, the percentage amount skyrocketed to 22%, which then decreased drastically to 8.97% in 2007. From 2007 until today, the average percentage has remained more or less stable. On average at a domestic level, Mexico gives the highest budget allocation priority to education. The budget allocation ranking is as follows: 1<sup>st</sup> Education; 2<sup>nd</sup> Health; 3<sup>rd</sup> Agriculture; 4<sup>th</sup> Communications and Transportation; 5<sup>th</sup> Social Development; 6<sup>th</sup> Treasury; 7<sup>th</sup> Defense. At a regional level, Mexico places 13<sup>th</sup> when it comes to the average amount of the National Budget destined to education (10.30%).

## Chapter 8: Venezuela



### Historical Background

The education system in force during the first years of the Republic after independence continued to be the one from the colonial period, i.e. private and religious. The consequences of the Venezuelan War of Independence (1810-1821) left the new legislative and political class a difficult challenge, since the priority was that of defeating the Spanish out of the continent and economically reconstructing the country. Venezuela achieved its first independence from Spanish colonization on July 5<sup>th</sup>, 1811, however, on 1830 Venezuela became a sovereign nation as it separated from Gran Colombia. Article 198 of the 1811 Constitution of Venezuela establishes that once the governments were instituted with the purpose of guaranteeing happiness to all, society was to guarantee public education for all its citizens (Bonilla-Molina, 2004, p. 12).

On May 10<sup>th</sup>, 1813 Simón Bolívar became Commander-in-Chief of Venezuela. Even though Bolívar outlined some ideas on compulsory schooling, he did not concretize a national education plan. During that period, however, the Cúcuta Congress and the Gran Colombian Executive Branch were able to promulgate legislation concerning public education, *inter alia*: the Law on the establishment of first letters schools for children (1821); the Law on the establishment of schools for girls in religious convents (1821); the Law on the establishment of schools or education houses in the provinces, and the Reform of the constitutions and old plans and the creation of a new one, Uniform for the entire Republic; the Law on the Implementation of public education of property of minor convents (1821); Law No. 16 of 1822 on the establishment of colleges (*escuelas normales*) in Bogotá, Caracas, and Quito; the

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Legislative Decree of 1823 on the establishment of a mining school; the Legislative Decree of 1825 on the establishment of navigation schools in the ports of the Republic; the Law on the organization of public education (1826); the Legislative Decree of 1827 authorizing the executive to implement curriculum reforms; the Decrees of the Liberator on: a) The statutes of the Central University, and b) The creation of the Sub-Directorate of Public Education of Venezuela (Bonilla-Molina, 2004, pp. 13-15).

It was only until 1843 that the first Public Education Code was promulgated, which contained 14 laws that regulated all educational activities in the country. According to the Code, education became a State function whose benefits were to be destined to all citizens. Moreover, education became secular, since the church was subjected to the State's discretion (Bonilla-Molina, 2004, pp. 19-20).

Almost a century later and wars, the bill of the 1948 Law of Education was inspired by Article 26 of the UDHR. This Law sanctioned education as a human right for all. However, on November 24<sup>th</sup>, 1948 President Gallegos was overthrown by a *coup d'état*. Marcos Pérez Jiménez, Commander-in-Chief of the Venezuelan Army, was part of the Military Junta that overthrew Gallegos. In 1953, Pérez Jiménez became President of Venezuela (Bonilla-Molina, 2004, p. 30). In 1949, the former Law of Education was repealed and later substituted by the Provisional Statute of Education. In 1951, the Regional Superintendencies of Education were created, and in 1955 the new Law of Education was promulgated. The Bolivarian Republic of Venezuela ratified the CDE on December 16<sup>th</sup>, 1968, and on July 26<sup>th</sup>, 1980 the new Law of Education was promulgated, which in turn repealed the 1955 Law of Education.

With the objective of defeating the neo-liberal and right-winged approach to state governance, Hugo Rafael Chávez Frías was elected President of Venezuela on December 6<sup>th</sup>, 1998. The Constitutional Reform was carried out in 1999 and made education a fundamental pillar and key agent for the construction of a democratic and peace-loving Nation that shall allow individuals to reach their full development and human dignity, and that will promote prosperity and human wellbeing, as well as guarantee the fulfillment of the principles, rights, and duties recognized and established in the Venezuelan Constitution.

Thus, education constitutes as a priority within the overall 1999 National Plan of State reform; priority which led an Education Constituent (*Constituyente Educativa*) that conducted in education centers a national consultation on society and the Republic's new citizen model. The method consisted in that each school involved assigned a commission to be responsible for organizing the proposals at a local, parochial, municipal, and state level (Dirección General de Currículo, 2009, p. 178). This process translated into the National Educational Plan (*Proyecto Educativo Nacional*; PEN) (Ministry of Education and Sports of Venezuela, 2004, p. 4). The PEN is the proposal that aims to develop new citizens through inclusive education and non-discrimination with the strong resistance to the traditional policy of placing education to the service of monopolist groups, since the integral development of the Venezuelan society requires the strengthening of a new social economic system. The educational framework, known as the Silver Decade of the Bolivarian Revolution of 2001-2010 (*Década de Plata de la Revolución Bolivariana*) is anchored to the Social Economic Development Plan of 2001-2007. Under this framework, schools represent a key pillar in the State-Society-Territory trilogy that aims to develop a new type of citizenship as well as a new social economic model.

## **The Right to Education and its Principles (Preamble and Articles 3-5 of the CDE)**

According to Article 102 of the 1999 Venezuelan Constitution<sup>1</sup>, education – which shall be democratic, free of charge and compulsory – is a human right and a fundamental social duty. Every individual has the right to an education that is integral, of quality, permanent, and under equal conditions and opportunities without other limitations than those derived from their own skills, vocation and aspirations (Article 103). This latter article establishes that education in State institutions is free of charge until the undergraduate university level, and it is the State's priority to invest in education as recommended by the United Nations. The duty of the State is thus to create and maintain institutions and services that are equipped enough to guarantee access to, retention in, and completion of the education system. Hence, Article 103 of the Constitution is in full harmony with Article 3 of the CDE, which sanctions the principles of non-discrimination in the admission of pupils to educational institutions, equality of treatment, and financial assistance in education.

On August 13<sup>th</sup>, 2009 the National Assembly of the Bolivarian Republic of Venezuela decreed the Organic Law of Education<sup>2</sup> (hereinafter: the Law), which repeals the 1980 Law of Education. The Law not only establishes the organization and functioning of the Venezuelan education system, but it develops the principles, values, rights, and duties in education, which the State assumes as an irrevocable function in harmony with constitutional principles and humanistic ethical values oriented towards social transformation (Article 1).

Education is not only a human right and a fundamental social duty, but the main pillar in the process of creation, transmission, and reproduction of diverse cultural manifestations and values, inventions, expressions, representations, and characteristics that serve to appreciate, assume and transform reality (Article 4). Article 14 enshrines education as a human right and a fundamental social duty that is, *inter alia*<sup>3</sup>, free of charge. The Law not only establishes that education is public, social, compulsory, and free of charge, but of quality, secular, comprehensive, and permanent, of social pertinence, creative, artistic, innovative, critical, multicultural, multiethnic, intercultural, and multilingual (Article 3). The State thus assumes education as an essential process to promote, strengthen, and spread the cultural values of the Venezuelan identity (Article 4), and, guarantees the full right to a comprehensive, lifelong, and quality education with rights and duties for all under the principles of gender equity and equality of conditions and opportunities (Article 6).

Under Article 6, the State also guarantees, *inter alia*, a free-of-charge education in all official education centers until the university undergraduate level; access to the education system through the apposite creation of conditions and opportunities for people with special

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<sup>1</sup> The Venezuelan Constitution of 1999: <http://www.tsj.gov.ve/legislacion/constitucion1999.htm>

<sup>2</sup> The 2009 Organic Law of Education: [http://www.me.gob.ve/ley\\_organica.pdf](http://www.me.gob.ve/ley_organica.pdf)

<sup>3</sup> According to Article 14 of Venezuela's Organic Law of Education, education is a comprehensive training process that is free, secular, inclusive, qualitative, permanent, continuous and interactive, promotes the social construction of knowledge, ethics and social assessment work as well as the integrity and primacy of human rights. It trains the new type of Republicans for the active, conscious and joint participation in the processes of individual and social transformation, in harmony with the values of national identity and a Latin America, Caribbean, Indian, Afro and universal vision.

educational needs or disabilities, and for those who have been deprived of their liberty and those who are within the Adolescent Responsibility Penal System; and that no student, representative, or responsible be neither charged with enrollment and administrative tuition fees or interests as a requisite for admission, retention and completion of the official educational institutions, or victim of an act that violates his or her right to education and respect for his or her physical, psychical, and moral integrity. The State also regulates, supervises and controls the compulsory nature of education, and thus establishes the mechanism necessary to require communities, families, parents, representatives or responsible guardians the compliance with education as a social duty (Article 6).

The Law bestows to the Governing Bodies of the education system the duty to guarantee: 1) the conditions and opportunities for the granting of accreditation and recognition of ancestral, artisan, traditional and popular apprenticeships, inventions, experiences, and knowledge, to those people that have not conducted the official academic studies as established by law; and 2) the institutional development and optimal functioning of the educational missions in order to assure the access, retention, completion of education of all individuals, with the overall objective of guaranteeing the universal right to education (Article 25).

### **Non-Discrimination (Articles 1-3 of the CDE)**

Some of the principles of education established by the Law are, *inter alia*, equality between all citizens without any type of discrimination, equity, and inclusion (Article 3). Non-discrimination, as according to the CDE, is thus a principle within the Venezuelan education system and legislation. The Law takes this principle even further by enshrining the principle of gender equality in education (Article 8): The State, in accordance with the gender equality perspective that is sanctioned by the Constitution<sup>4</sup>, guarantees equality of conditions and opportunities in order for children, adolescents, men, and women to be able to exercise their right to an integral and quality education.

Article 10 of the Law sanctions the prohibition of incitement to hatred: all educational centers and institutions of Venezuela are prohibited to publish and publicize any type or form of messages that incite hate, violence, insecurity and intolerance, which violate the values of peace, morality, ethics, good manners, health, human coexistence, human rights, the environment, democratic principles, national, regional and local sovereignty and identity, the respect for the right of indigenous and afro-descendent peoples and groups, and that promote terror and discrimination of any type. Education in the Venezuelan education system aims to reach the following objectives, *inter alia*: a participatory democracy and the eradication of exclusion, racism and any form of discrimination (Article 15).

Moreover, and in harmony with Articles 1-3 of the CDE, Article 41 of the Venezuelan Law against Racial Discrimination<sup>5</sup> of August 22<sup>nd</sup>, 2011 establishes that a person commits an offense of racial discrimination in education if he or she:

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<sup>4</sup> Article 88 of the Venezuelan Constitution, for example, enshrines the principles of equality and equity between men and women in the exercise of their right to work.

<sup>5</sup> The Law against Racial Discrimination of 2011:



1. Denies or limits the access of a person or group of people to any type and level of education.
2. Restricts a person or group of people from receiving a quality education and under unequal conditions.
3. Provides a different type of education to a person or group of people, save for the cases established by Article 12 of this Law, which stipulates cases of non-discrimination.
4. Prevents access to and retention in the education system to a person or group of people on equal terms, as well as access to grants and incentives that violates the rules governing the matter.
5. Prevents the participation of a person or group of people in sports, recreational or cultural activities.

### **Primary and Secondary Education (Article 4 of the CDE)**

The Law delegates to a special law of basic education the functioning of the sub-system of basic education and concerning its modalities and mechanism as well as its coordination with higher education (Article 31). However, Article 3 establishes that education is free of charge and compulsory. Moreover, Article 102 of the Constitution sanctions education as a right that is free of charge and compulsory, while Article 103 establishes that education in State institutions is free of charge until the undergraduate university level.

### **Higher Education (Article 4 of the CDE)**

The fundamental guiding principles of higher education, i.e. the university level, are those established by the Constitution. According to Article 33 of the Law, these include its public nature, quality, innovation, freedom of critical and reflective thought, inclusion, relevance, integral training, lifelong training, autonomy, international cooperation, democracy, liberty, solidarity, universality, efficiency, social justice, respect of human rights and bioethics, participation, and equality of conditions and opportunities. The principle of university autonomy is enshrined by Article 34.

However, the regime of universities is delegated unto a special law and other normative instruments (Article 32 and 35). It is thus that on May 22<sup>nd</sup>, 2001 the Venezuelan Congress promulgated the Law of Universities (*Ley de Universidades*)<sup>6</sup> – a reform of the 1970 Law of Universities. Article 8 establishes that universities shall be either national or private, but that National Universities are created by National Executive Decree. Private Universities need to be authorized by the State, in accordance with the provisions of Articles

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[http://www.asambleanacional.gov.ve/index.php?option=com\\_docman&task=doc\\_details&gid=3810&Itemid=190&lang=es](http://www.asambleanacional.gov.ve/index.php?option=com_docman&task=doc_details&gid=3810&Itemid=190&lang=es)

<sup>6</sup> Law of Universities:

[http://www.ucv.ve/fileadmin/user\\_upload/dic/Documentos\\_Varios/Ley\\_de\\_Universidades\\_vigente.pdf](http://www.ucv.ve/fileadmin/user_upload/dic/Documentos_Varios/Ley_de_Universidades_vigente.pdf)

173, 174, 175 and 176 of this Law. Article 173 establishes that the National Council of Universities can authorize by Decree the establishment and functioning of Universities founded by natural or legal private persons. Article 9 bestows autonomy to universities. They have organizational, academic, administrative, and economic autonomy. Article 11 establishes that regular studies are free of charge; however, students who fail and have to repeat the course must pay the fee as established by the relevant Regulation. Article 13 stipulates that in the Budget Law an amount of no less than 1.5% of the total budget as declared by that same Law will be destined to National Universities.

In 2005, Venezuela and Cuba stipulated the Sandino Pact (*Pacto de Sandino*), which established to train 200,000 doctors in 10 years. Along with the 20,000 Venezuelans that began the Training Program in Comprehensive Community Medicine (*Programa de Formación en Medicina Integral Comunitaria*) in 2008, the Latin American School of Medicine (*Escuela Lationamericana de Medicina – ELAM*) incorporated about 800 students from 15 different nations from Latin America and the Caribbean, and Africa (Moreno González, 2009, p. 179). Through these initiatives, strategic alliances were stipulated and carried out with the institutions that collaborated in the training of the international medicine fellows and with the national public health system (e.g. *Misión Barrio Adentro*, *Comando de Médicos y Médicas por Venezuela*, *Misión Milagro*, and other social organizations). Venezuela gives the opportunity to about 1800 international students to carry out their university studies. These students come from: Argentina, Barbados, Bolivia, Brazil, Chile, Colombia, Dominica, Ecuador, El Salvador, Gambia, Grenada, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, the Saharawi Arab Republic, Dominican Republic, Saint Vincent and the Grenadines, Suriname, and Uruguay (Venezuelan National Commission of Cooperation with UNESCO, 2010, p. 10).

### **Quality of Education (Article 4 of the CDE)**

“Quality” is sanctioned by the 2009 Law of Education as a fundamental aspect of the right to education and of education in general (Articles 3, 6, 8, 14, and 33), as well as by the Constitution (Article 103). The State and the national organs competent in education have the duty to plan, execute and coordinate policies and programs of permanent statistical evaluation of students in order to create qualitative and quantitative indicators so that the national education strategy shall be improved (Article 6).

The Law establishes two types of evaluation: educational and institutional. Educational evaluation has the duty to register – on a permanent basis and through scientific, technical and humanistic procedures – student achievement, the appropriation and construction of learning, taking into account socio-historical factors, individual differences, and value the performance of teachers and all the elements of that process (Article 44). The competent organ for basic education shall establish the rules and procedures governing the evaluation process at the different levels of basic education system<sup>7</sup>, while a special law shall

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<sup>7</sup> Article 20.18 of the Law of Universities bestows unto the National Council of Universities the duty to elaborate, in periods of no less than ten years, an evaluation report of the whole university system. The report

regulate university levels. Institutional evaluation is conducted by the competent organs for basic and higher education through their respective national, regional, municipal, and local bodies, in educational institutions, centers, and services during the periods established by the Regulation of this Law (Article 45).

### **Continuing Education (Article 4 of the CDE)**

With the mandate of alphabetizing one million people in one year (July 2003 – July 2004), the Robinson<sup>8</sup> Mission was one of the first social missions of Venezuela that gave way to others (e.g. Ribas Mission and the Sucre Mission). The Robinson Mission aimed to alphabetize without any type of discrimination, and was able to include the penitentiary system benefiting 1,554 prisoners, which made up 100% of the penitentiary illiterate population. The mission consists of two phases: the first aims to eliminate illiteracy and the second to complete primary education. About 70,000 people from aboriginal groups (*kariña, wayuu, piaroa, jiwí, yanomami, warao, piapoco, warenquena, barí, yekuana, pemón, maquiritare, yukpa, and pumé*) were also included, out of which 38,500 women and 31,500 men. The *Yo, Sí Puedo* manual was translated into some of the indigenous languages and adapted to the Braille system for the blind. About 7,154 people with special needs were included as well (Ministry of Communication and Information, 2005, p.13). Two and a half million Family Libraries (*Bibliotecas Familiares*), which contained 25 books each, were distributed to graduates of the Robinson Mission in 2004-2006 (Torres, 2009, p. 27).

This mission was a collective act of freedom. President Hugo Rafael Chávez Frías uses the metaphor of war to describe the power of the literacy mission: the national territory transformed itself into a battle field where the army of light deployed to combat the secular enemy called illiteracy. Chávez calls this mission a “civic military operation”, for it is the State’s duty to honor the sacrifice of a *Pueblo* that was defeated twice by *coups d’état* and to take the offensive on the social field giving maximum priority to the fight against ignorance and educational exclusion. Moreover, Chávez thanks the Cuban Revolution and the Cuban Government for having put the *Yo, Sí Puedo* method at Venezuela’s disposal and for having provided Venezuela with technical consultancy (Ministry of Communication and Information, 2005, p.7).

The State’s mission was to combat the historical accumulated debt of illiteracy since Venezuela’s 19<sup>th</sup> century Independence, which is reflected by 1,500,000 illiterate people as according to the 2001 Census. Between 1990 and 1998, about 73,649 people were alphabetized through the Ministry of Education’s official literacy program, and about 3,299

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should include concrete propositions and recommendations about legal, administrative, and academic reforms that the Council retains necessary in order to constantly renovate the Venezuelan university system.

<sup>8</sup> Simón Rodríguez was Simón “El Libertador” Bolívar’s teacher. Among the patriot society Simón Rodríguez was known as “Robinson”. Once Venezuela achieved independence, Robinson went to Bogota and founded a school, House of the Public Industry (*Casa de Industria Pública*). The school’s objective was to teach mechanical occupations to the most vulnerable classes of society. Robinson believed that only through dignifying manual work and practical arts, illiterate masses would be able to become productive and consumerist citizens. He believed that education had to derive from the human being’s most primordial necessities (Bonilla-Molina, 2004, pp.16-17).

through private education. In 2000, the National Literacy Plan of the Ministry of Education and Sports was able to alphabetize about 19,621 people in two years (Ministry of Communication and Information, 2005, p.11).

The missions, however, encountered obstacles that influenced how (un)successful their impact was. The challenges that diminished the effectiveness of the mission, as well as some measures taken to counteract them were (Ministry of Communication and Information, 2005, p.17):

- The recruitment of the first 100,000 illiterates due to their resistance in publicly admitting their illiterate condition, for which a human dignity campaign was launched by President Chávez;
- The ethnic diversity and multiculturalism of the peoples led to the elaboration of manuals and videos in the indigenous languages and training of mediators – this was also the case for handicapped people;
- The geographic diversity and the problem of accessing far-reaching territories made the storage and distribution of materials and equipment difficult, thus the National Armed Forces had to intervene and provide logistical support;
- The enormous requirement for transports and fuel were provided by the Venezuelan Government;
- The lack of electric energy in some areas of the country pushed the Government to buy electric plant;
- About 30% of illiterates did not have identification documents, thus an ad hoc campaign was launch to nationalize foreigners and register residents that have lived in Venezuela for many years;
- The private media network launched negative campaigns which the Government had to counteract; and
- The security problem in certain zones of the country, especially around the border, caused robberies, assaults, sabotages, kidnapping of some facilitators, and the loss of human lives.

Moreover, in 2012, Venezuela was awarded on of the three UNESCO-Hamdan Bin Rashid Al-Maktoum Prizes<sup>9</sup> for Outstanding Practice and Performance in Enhancing the Effectiveness of Teachers, for the *Banco del Libro* project, which aims to promote reading, organize libraries for schools and the public, as well as develop evaluation tools to recommend books for children (UNESCO Education Sector, 2012).

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<sup>9</sup> The UNESCO-Hamdan Bin Rashid Al-Maktoum Prize is awarded every two years, and consists of US\$270.000, which is divided between three winners.

## **Teacher Training (Article 4 of the CDE)**

Article 104 of Venezuela's Constitution establishes that the State shall stimulate the permanent actualization of teachers, and delegates unto a special law to establish the standards for the teaching profession. The 2009 Law of Education dedicates Chapter IV to teacher training and the teaching profession: Article 37 bestows the State with the duty to formulate, regulate, follow-up and manage teacher training policies, via the organs whose competence is basic and higher (university) education. This article further stipulates that teacher training is to be regulated by special law, which is to coordinate and organize teacher training programs with higher education institutions. Article 38 enshrines permanent training as a holistic and continuous actualization process for those who are responsible and co-responsible for the formation of citizens. Permanent training shall guarantee the strengthening of a critical, reflective, and participatory society as part of the developmental and transformational process that the nation requires.

Moreover, Decree No. 1011 on the regulations for the practice of the teaching profession (*Reglamento del Ejercicio de la Profesión Docente*)<sup>10</sup> was adopted in 2001. Article 8 of the Decree bestows unto teachers the right to receive scholarships for their improvement, actualization, and postgraduate courses. Chapter V of the Decree is dedicated to the improvement of teaching professionals: knowledge updating, functional specialization, and professional improvement and development are both a compulsory duty and a right for all the teaching staff in service (Article 139). Competent educational authorities shall establish a regime of incentives, special accreditation systems, distance learning, and educational scholarships and credits for teachers and their respective training (Article 140).

## **Human Development (Article 5 of the CDE)**

Constitutional Article 102 establishes that education, as a public service, has the objective to develop the creative potential of every human being and the full exercise of their personality in a democratic society that is based on the valorization of the work ethic, active participation, and values of national identity with a Latin-American and universal perspective.

Article 6 of the Law of Education enshrines the duty of the State to plan, execute, and coordinate policies and programs that are, *inter alia*, oriented towards the full development of the human being and his or her incorporation into the labor market, as well as the socio-cognitive holistic development of citizens. The aims are: to achieve a new school model that is an open arena for endogenous production and development, community work, holistic training, creation and creativity, promotion of health, breastfeeding, respect for life, a clean and secure environment that is ecologically balanced; pedagogical innovations; alternative communications; the use and development of technology of information and communication; community organization; and the consolidation of peace, tolerance, coexistence, and respect for human rights.

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<sup>10</sup> Decree No. 1001 of 2001: [http://www.oas.org/juridico/spanish/mesicic2\\_ven\\_anexo\\_51\\_sp.pdf](http://www.oas.org/juridico/spanish/mesicic2_ven_anexo_51_sp.pdf)

Article 15 establishes the goals of education: the development of the full creative potential of a human being, which shall allow for the full exercise of his or her personality and citizenship; the formation of citizens with a geo-historic focus, sovereign and national conscience, patriotic values, traditional values and popular, ancestral, and artisan knowledge, and cultural diversity, with the ends of creating a new endogenous production model; the fostering of respect for human dignity and ethical education for the values of tolerance, justice, solidarity, peace, respect for human rights and non-discrimination; the promotion of education for the development of an ecological conscience in order to safeguard biodiversity and socio-diversity, environmental conditions and the rational use of natural resources; and the development of an educational process that raises the conscience reach supreme social happiness via an inclusive socio-economic structure and a new social, humanistic, and endogenous production model.

### **Religious Education and Rights of Parents (Article 5 of the CDE)**

Article 7 of the Law establishes that the State is to maintain education secular, since the State is independent from any type of religious entities. This article bestows the right and the responsibility of parents to provide their children with the religious education that is in conformity with their own convictions and with the Constitutional sanctioned freedom of religion and worship.

### **Minority Rights (Article 5 of the CDE)**

Constitutional Article 100 establishes the principles of equality of cultures and “interculturality”, and recognizes that popular cultures form an integral part of the Venezuelan identity and are entitled to special attention. To that extent, the 2009 Law of Education enshrines the respect of the diversity of different human groups as a fundamental value (Article 3). It can be concluded that the education system shall provide minority groups with educational rights, since the respect and principle of cultural diversity is enshrined not only in the Constitution, but also on the Law of Education.

Article 6 of the Law establishes that through the competent national organs of education, the State will guarantee the use of Castilian Spanish in all educational centers and institutes, except when intercultural-bilingual indigenous education is carried out, which shall guarantee the official use of the indigenous languages along with Castilian Spanish. Article 9 of the Constitution establishes Castilian Spanish as Venezuela’s official language, however, indigenous languages are also of official use for indigenous peoples, and must be respected in the entire Venezuela territory, since they constitute as cultural heritage of the Nation and of humanity.

In this regard, intercultural and intercultural bilingual education provides programs that are based on the principles and foundations of the cultures of indigenous and afro-descendent peoples and communities, and that value their language, worldview, values, knowledge, mythology, as well as their social, economic, political and judicial organization,

which constitutes the Nation's heritage (Article 27). This same article establishes that intercultural bilingual education is compulsory and indispensable in all schools and education centers located in regions with indigenous populations until basic education. It further delegates unto a special law the organization of such system.

It is thus that on June 2012 the Permanent Commission of Indigenous Peoples of the National Assembly approved the new bill for the Law of Education of Indigenous Peoples, which establishes the guidelines for the education of children and young people that come from aboriginal communities (Camacho, 2012). This project is the result of a popular initiative that aims to recover, promote, and spread through the means of education the culture of Venezuelan aboriginal communities. Deputy César Sanguinetti, president of the Sub-Commission of Indigenous Legislation, explained that it is necessary to vindicate the rights of aboriginal peoples – who were forgotten for more than 500 years – since they too have values (Depablos, 2012). The Law aims to conserve the values and the cultural and ethnic identity of each autochthonous group present in the Venezuelan territory through education.

Moreover, Article 103 establishes that the law will guarantee equal attention to people with special needs or disabilities, and to those who are deprived of their liberty or lack basic conditions to integrate and remain in the education system. Article 28 establishes a special type of education for those who live by all throughout the National borders (*Educación en fronteras*), whose objectives are: to favor the harmonious development of the people that live in the geographic zones of the Venezuelan border; to strengthen national sovereignty, and the security and defense of the Nation, as well as national identity, protection of the cultural heritage, comprehension of bilateral relations, culture of peace, and mutual friendship with neighbors.

Moreover, Article 29 establishes rural education (*Educación rural*), which is directed towards the holistic education of all citizens in their respective geographic contexts. Rural education is guided by the values of local, regional and national identity in order to develop in them an attachment to their own habitat while promoting a harmonious articulation between the countryside and the city, and between rural education and intercultural and intercultural-bilingual education.

## **Financing Education**

In order to sustain an education system of such caliber, the State (principally), along with private entities and/or third parties, must provide the system with the necessary funds. The 2009 Law of Education dedicates Chapter VI (Article 50) to the financing of education, establishing that the State guarantees the annual progressive growth of prioritized investment in education. The investment shall be destined to the construction, expansion, rehabilitation, equipment, maintenance and comprehensive maintenance of school buildings that are geographically and culturally contextualized, as well as to the provision of services, equipment, tools, machinery, supplies, software and programs, and any other needs arising from cultural and educational innovations. The services, equipment and supplies referrals include those linked to comprehensive health programs, sports, recreation and culture of the education.

*Implementing the Right to Education: How Latin American Countries Implement the UNESCO  
Convention Against Discrimination in Education*

Gianna Alessandra Sánchez Moretti

CHAPTER 8: VENEZUELA

As Chapter 2 evidenced, from 2000 until 2012, Venezuela has destined an average percentage of 21.22% from its National Budget to education. The lowest average percentage from the National Budget destined to education was 17% in 2000, while the highest was 36.28% in 2008. On average at a domestic level, the National Budget allocation ranking is as follows: 1<sup>st</sup> Education; 2<sup>nd</sup> Employment and Security; 3<sup>rd</sup> Health; 4<sup>th</sup> Defense; 5<sup>th</sup> Infrastructure; 6<sup>th</sup> Housing; 7<sup>th</sup> Agriculture. At a regional level, Venezuela places 3<sup>rd</sup> when it comes to the average amount of the National Budget destined to education (21.22%).



## Chapter 9: Measuring the Progress of Education in Latin America

### Measuring Progress through Indicators

A “toolbox of indicators” is needed in order to measure progress in a specific area or subject-matter. An indicator is an instrument or tool for evaluation, i.e. a tool that should be able to measure results and to assess the realization of desired levels of performance in a sustained and objective manner (Kapoor, 1996). Indicators are tools that can survey an area of interest, as well as identify problems or issues that need to be addressed, and thus identify where there is room for improvement.

If the area that needs to be evaluated and measured concerns “rights”, then the toolbox of indicators should aim not just to measure the extent of how much a certain right is protected by a national government, for example, but to monitor the implementation of that right. In recent years, the development of indicators with a rights-based approach has become increasingly relevant. Indicators have become central in developing the capacity for monitoring economic, social and cultural rights and evaluating the performance of countries in implementing these rights (Chapman, 2007, p. 111).

Concerning the right to education, there have been official initiatives to develop and agree upon a toolbox of indicators to monitor this right. For example, Katarina Tomaševski, former UN Special Rapporteur on the Right to Education (1998-2004), developed the 4-As scheme indicators, which were subsequently used by the Committee on Economic, Social and Cultural Rights in its clarification of the normative basis for Article 13 of the Convention on Economic, Social and Cultural Rights (General Comments No.13 of the 21<sup>st</sup> Session, 1999)<sup>1</sup>. This scheme translates into revolving State obligations regarding education around the 4-As. The 4-A scheme distinguishes between four interrelated and essential features of education; in other words, education must be:

1. **Available:** Availability establishes that functioning educational institutions and programs have to be available in sufficient quantity within a State. The functionality of these institutions also depends on the context within which they operate, e.g. buildings or other protection from the elements, sanitation facilities for both sexes, safe drinking water, trained teachers receiving domestically competitive salaries, teaching materials, a library, computer facilities and information technology, etc.
2. **Accessible:** Accessibility establishes that educational institutions and programs have to be accessible to everyone within the State without discrimination. Education must be accessible to all: 1) especially to the most vulnerable groups, in law and fact, without discrimination on any of the prohibited grounds; 2) within safe physical reach, either by attendance at some reasonably convenient

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<sup>1</sup> General Comments No.13 of the 21<sup>st</sup> Session:

<http://www.unhchr.ch/tbs/doc.nsf/0/ae1a0b126d068e868025683c003c8b3b?Opendocument>

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geographic location (e.g. a neighborhood school) or via modern technology (e.g. access to a distance learning program); 3) by being affordable to all. Whereas primary education shall be available ‘free to all’, States parties are required to progressively introduce free secondary and higher education.

3. **Acceptable:** It is not enough to secure availability and accessibility. Education must be of good quality. Acceptability stipulates that the form and substance of education, e.g. curricula and teaching methods, have to be acceptable (i.e. relevant, culturally appropriate and of good quality) to teachers, students, and parents. This means that education is subjected to the educational objectives and minimum standards approved by the international community.
4. **Adaptable:** Adaptability stipulates that education has to be flexible in order to be able to adapt to the needs of changing societies and respond to the needs of students within their diverse social and cultural context, especially to include marginalized and vulnerable groups.

Moreover, Paul Hunt, former UN Special Rapporteur for the right of everyone to enjoy the highest attainable standard of physical and mental health (2002-2008), has suggested an indicator approach concerning the right to health that was subsequently adopted for other economic, social, and cultural rights, e.g. by the Office of the High Commissioner for Human Rights experts working on human rights indicators (Chapman, 2007, p.131). Hunt distinguishes between three types of indicators: Structural, Process and Outcome<sup>2</sup>:

- **Structural Indicators:** evaluate the infrastructure in place for the realization of a specific right, i.e. institutions, as well as constitutional and legislative provisions.
- **Process Indicators:** evaluate the activities in place that are necessary to attain specific rights-related objectives and their progress.
- **Outcome Indicators:** evaluate the status of the population’s enjoyment of a specific right.

There is hence a general consensus amongst the international community upon how a rights-based indicator should be. Human rights indicators should be: valid, objective, sensitive, specific, user-friendly, feasible, policy relevant, consistently measurable over time, and capable of disaggregation (Chapman, 2007, p. 114). Depending on what area is being evaluated, indicators can be more or less detailed (please refer to the annex at the end of this thesis). However, how can these indicators be used in reality? What are the limits to these indicators?

The functionality of these indicators stretches all the way from the local until the international level. Indicators could be used by local education authorities to help their respective national governments in measuring the progress of education at a local level. These results can help national governments, along with their respective Ministries of Education, to improve the status of education (i.e. educational legislation, policies, programs, plans,

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<sup>2</sup> For a detailed list of these indicators, please refer to Chapter 9’s annex at the end of this thesis.

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strategies, quality, funding, etc.) from the national to the local. At an international level, entities that monitor the implementation of specific rights (e.g. UN treaty bodies, development agencies, donors, NGOs, and national human rights institutions), in this case, the right to education can use these indicators to not just monitor, but to provide technical and expert support to governments on how the status of the right to education must be improved at a national level, e.g. the role of UNESCO in monitoring the right to education through its Right to Education Program.

Other than not having a universal agreed-upon indicator that monitors the right to education, the principal limits to these indicators deal with coordination and data-collection. If entities that wish to use these indicators are not coordinated, then the use of these indicators will not be as effective and efficient as if these entities were coordinated and worked together. For example, the use of these indicators by national governments should be officially handed down to their respective Ministries of Education in coordination with their respective national entity for statistics. At an international level, the UN and its organs, for example, should decide on the indicators necessary to evaluate, in this case, the right to education (task which would be handed down to UNESCO).

Regarding data collection, usually human rights treaty-monitoring bodies require national reports to provide process and outcome data that are disaggregated on a variety of grounds, e.g. sex, ethnicity, and geographic areas. However, countries that have weak data-collection systems may not have the necessary disaggregated data available or the mechanisms or resources to collect them (Chapman, 2007, p. 115). Thus, to address this issue, strategies must be established to identify what data is available, can be made available at a reasonable cost, and should be made available at any cost because it is necessary to evaluate the core content of the right to education.

Another aspect concerning the limits to education-based indicators, regards the identification of what those indicators should be evaluating: the development and progress of education in general OR the implementation of the Human Right to Education (Chapman, 2007, p. 130). Even if these are two separate spheres of education, they are nevertheless related and relevant to the purpose of one another. In other words, the right to education serves as pivotal foundation to guarantee the improvement and progress of a national education system. These indicators should thus be updated in accordance to the issues, demands, and problems that a society faces, e.g. the rise of advocating for minority rights should be translated into becoming part of an indicator, e.g. concerning languages in education or the specification of different groups of minorities throughout the different levels of education.

In order to measure progress and the social impact of each respective legal framework for education, this thesis will now analyze the progress thus far achieved towards Dakar's six EFA goals of 2000, as measured by the EFA Development Index (EDI) of each of the nineteen Latin American countries for the period between 1998 and 2008.

## The Education for All (EFA) Goals

In April 2000, more than 1,100 participants from 164 countries gathered in Dakar, Senegal for the World Education Forum. Teachers, prime ministers, academics, policymakers, and non-governmental bodies to the heads of major international organizations adopted the “Dakar Framework for Action, Education for All: Meeting Our Collective Commitments”<sup>3</sup>. The Dakar Framework lays out a set of goals and strategies for achieving the EFA goals by 2015. The Framework reaffirms “the vision of the World Conference on Education for All<sup>4</sup> (Jomtien, Thailand, 1990) that all children, young people and adults have the fundamental human right, to a basic education that will develop their talents, improve their lives and transform their societies” (UNESCO, 2001, p.7). Below, Table 9.1 displays the six EFA goals as established by the Dakar Framework.

**Table 9.1. The Six EFA Goals (Dakar, 2000)**

<b>Goal</b>	<b>Description</b>
1. Expand early Childhood Care and Education	Expanding and improving comprehensive early childhood care and education, especially for the most vulnerable and disadvantaged children.
2. Ensure Universal Primary Education	Ensuring that by 2015 all children, particularly girls, children in difficult circumstances and those belonging to ethnic minorities, have access to and complete free and compulsory primary education of good quality.
3. Meet Youth and Adult Learning Needs	Ensuring that the learning needs of all young people and adults are met through equitable access to appropriate learning life skills programs.
4. Improve Levels of Adult Literacy	Achieving a 50 per cent improvement in levels of adult literacy by 2015, especially for women, and equitable access to basic and continuing education for all adults.
5. Ensure Gender Parity and Equality in Education	Eliminating gender disparities in primary and secondary education by 2005, and achieving gender equality in education by 2015, with a focus on ensuring girls’ full and equal access to and achievement in basic education of good quality.
6. Improve the Quality of Education	Improving every aspect of the quality of education, and ensuring their excellence so that recognized and measurable learning outcomes are achieved by all, especially in literacy, numeracy and essential life skill.

Source: UNESCO, 2000, *The Dakar Framework for Action*, Paris, pp. 15-17.

<sup>3</sup> The Dakar Framework: <http://unesdoc.unesco.org/images/0012/001211/121147e.pdf>

<sup>4</sup> In 1990, delegates from 155 countries, as well as representatives from some 150 organizations agreed at the World Conference on Education for All in Jomtien, Thailand (5-9 March 1990) to universalize primary education and massively reduce illiteracy before the end of the decade.

## CHAPTER 9: MEASURING THE PROGRESS OF EDUCATION IN LATIN AMERICA

These established goals not only give purpose and legitimacy to the CDE, but they also strengthen the enforcement of the right to education both at a national and international level. With set goals, the purpose of protecting and upholding the right to education for all is further legitimized. In order to achieve these goals, EFA activities and initiatives depend on national governments, partnerships, and coordination between governments, institutions and civil society (UNESCO, 2001, p.7), i.e. by creating an integrated and interconnect process of good governance. This fundamental assumption suggests that national governments play a determining role in achieving (or not) or getting closer to the six EFA goals.

For this purpose, the countries of Latin America, the Caribbean, and North America met in Santo Domingo on February 10<sup>th</sup>-12<sup>th</sup>, 2000 and agreed to the “Regional Framework of Action for the Americas”<sup>5</sup>, in which they renewed their commitments to EFA for the next fifteen years. These countries all share the conviction that quality education is the key to sustainable human development, and that it is within their duty to protect and implement it.

By addressing national education challenges through policy-making and initiatives, achieving the six EFA goals becomes more natural for each country. This depends on the capacity of a country’s governance, implementation, and follow-up mechanisms. UNESCO, as a central international forum where Member States can draw up common rules and establish international normative instruments that are legally binding, serves as a standard-setting and monitoring actor with the mission of advocating and protecting the ethical, moral, normative and intellectual issues of our times. UNESCO measures the progress towards the EFA goals through the EFA Development Index (EDI).

### **The EFA Development Index (EDI)**

The EFA Development Index (EDI) is a composite index that provides an overall assessment of a country’s education system in relation to the EFA goals. Due to data constraints, the composite index currently focuses only on the four most easily quantifiable goals:

- **Universal primary education** (Goal 2), measured by the primary adjusted net enrolment ratio (ANER), which measures the proportion of children of primary school age who are enrolled in either primary or secondary education;
- **Adult literacy** (Goal 4), measured by the literacy rate for those aged 15 and above;
- **Gender parity and equality** (Goal 5), measured by the gender-specific EFA index (GEI), an average of the gender parity indexes of the primary and secondary gross enrolment ratios and the adult literacy rate. The gender parity aspect of the goal is measured by the gender parity index (GPI) of the primary and secondary gross enrolment ratio. Owing to the lack of cross-country comparable measures of gender disparities in learning outcomes, which are an aspect of gender equality, the GEI uses

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<sup>5</sup>Regional Framework of Action for the Americas:

<http://www.unicef.org/lac/spbarbados/Planning/Regional/ECD/Education%20for%20All%20in%20the%20Americas.doc>

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the GPI of the adult literacy rate as a proxy indicator for this second part of the gender goal;

- **Quality of education** (Goal 6), measured by the survival rate till 5<sup>th</sup> grade.

One indicator is used as a proxy measure for each of the four EFA goals, and each of those EDI components is assigned equal weight in the overall index in accordance with the principle of considering each goal as being of equal importance. The EDI value for a given country is the arithmetic mean of indicators measuring each of its components, as shown by the formula below:

$$\begin{aligned} \text{EDI} = & 1/4 \text{ (primary ANER)} \\ & + 1/4 \text{ (adult literacy rate)} \\ & + 1/4 \text{ (GEI)} \\ & + 1/4 \text{ (survival rate to grade 5)} \end{aligned}$$

Since they are all expressed as percentages, the EDI value can vary from 0 to 100 percent or, when expressed as a ratio, from 0 to 1. The higher the EDI value, the closer the country is to achieving EFA as a whole. The GEI is obtained by calculating a simple average of the three GPIs:

$$\begin{aligned} \text{GEI} = & 1/3 \text{ (primary GPI)} \\ & + 1/3 \text{ (transformed secondary GPI)} \\ & + 1/3 \text{ (transformed adult literacy GPI)} \end{aligned}$$

For 2008, only 127 countries had the data required to calculate the EDI. Many countries are still excluded, among them a number of countries in conflict or post-conflict situations and countries with weak education statistical systems (UNESCO, GMR 2011, p. 262). This fact, coupled with the exclusion of goals 1 and 3, means that the EDI does not yet provide a fully comprehensive and global overview of EFA achievement; thus the need to strive to perfect an indicator that can more accurately measure the progress of education at country-level. Even though the EDI must improve its assessing capacities and resources, which are nonetheless linked to the education system and government of each country, it is a step forward to improve the monitoring of the progress and status of education worldwide.

## **EDI in Latin America**

In order to get a sample of where Latin America stands in education, the six countries under analysis were chosen based on their EDI average from 1998 until 2008, on their compliance with regional and international legal normative instruments (Chapter 1), as well as on the average amount of their national budget allocation destined to education (Chapter 2). Along with the above mentioned criteria, two countries were chosen out of the lowest EDI ranking in Latin America (Colombia and Guatemala), two from the middle (Bolivia and Venezuela), and two from the highest (Cuba and Mexico). Below, Table 9.2 displays the EDI scores of the nineteen Latin American countries, while Table 9.3 displays Latin America's 1) average GNP per capita of 1998 and 2008; 2) average education budgets from 2000 to 2012; and 3) EDI average from 1998 until 2008, which constitute the main criteria for choosing the six countries analyzed in this thesis. Table 9.2 was exclusively elaborated for this thesis from the classification of the EDI for each of the nineteen Latin American countries as reported by the EFA Global Monitoring Reports from 2002 until 2011.

Table 9.2. Tracking the EFA Development Index (EDI) in Latin America (1998-2008)

Country	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	Average
1. Argentina	0.972	0.963	0.961	0.970	0.976	0.968	0.946	0.979	0.956	0.971	0.972	0.962
2. Bolivia,	0.878	0.894	0.897	0.882	0.904	0.904	0.911	0.913	0.915	0.911	0.911	0.901
3. Brazil	...	...	...	0.899	0.905	0.905	0.905	0.901	0.901	0.883	0.887	0.898
4. Chile	0.952	...	0.957	0.958	0.952	0.952	0.969	0.969	...	0.966	0.968	0.960
5. Colombia	0.858	...	0.859	0.841	0.876	0.876	0.879	0.899	0.905	0.920	0.929	0.884
6. Costa Rica	...	...	0.908	0.948	0.938	0.938	0.956	...	...	...	...	0.937
7. Cuba	0.964	0.974	0.966	0.965	0.968	0.976	0.981	0.983	0.981	0.982	0.986	0.975
8. Dominican Republic	0.846	0.850	0.859	0.869	0.865	0.865	0.816	0.892	0.824	0.836	0.840	0.851
9. Ecuador	0.906	0.913	0.917	0.918	0.908	0.908	0.914	0.917	0.919	0.906	0.911	0.912
10. El Salvador	0.792	...	...	0.830	0.842	0.842	0.861	0.854	0.867	0.865	0.889	0.849
11. Guatemala	0.703	0.734	0.742	0.748	0.782	0.782	0.825	0.812	0.819	0.823	0.830	0.781
12. Honduras	...	...	...	...	...	...	...	0.848	0.887	0.885	0.878	0.874
13. Mexico	...	...	0.939	0.941	0.946	0.946	0.949	0.953	0.956	0.959	0.957	0.949
14. Nicaragua	0.759	0.749	0.725	0.768	0.817	0.817	0.811	0.804	0.799	0.794	0.795	0.785
15. Panama	...	0.942	0.951	0.941	0.944	0.944	0.928	0.934	0.941	0.947	0.939	0.941
16. Paraguay	0.875	0.909	0.901	0.893	0.870	0.870	0.909	0.902	0.935	0.936	0.914	0.901
17. Peru	0.917	...	0.928	0.912	0.911	0.911	0.916	0.931	0.931	0.942	0.925	0.922
18. Uruguay	...	...	0.935	0.927	0.941	0.941	0.946	0.948	0.963	0.971	0.972	0.949
19. Venezuela	0.903	0.910	0.941	0.941	0.911	0.911	0.932	0.931	0.934	0.956	0.919	0.926

\* ... : Data not available.



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**Table 9.3. Latin America's 1) Average GNP per capita of 1998 and 2008; 2) Average education budgets from 2000 to 2012; and 3) EDI Average from 1998 until 2008**

Country	Average GNP per capita 1998 and 2008	Country	Average Education Budget of National Budgets 2000-2012
1. Argentina	7,610	1. Honduras	27.46%
2. Uruguay	7,435	2. Costa Rica	23.01%
3. Chile	7,335	3. Venezuela	21.22%
4. Mexico	7,000	4. Chile	20.34%
5. Venezuela, B.R.	6,295	5. Cuba	18.57%
6. Brazil	6,115	6. El Salvador	17.68%
7. Panama	4,865	7. Uruguay	16.48%
8. Costa Rica	4,780	8. Guatemala	14.33%
9. Colombia	3,605	9. Nicaragua	12.98%
10. Peru	3,115	10. Colombia	12.78%
11. Dominican Republic	3,080	11. Dominican Republic	12.36%
12. Ecuador	2,725	12. Ecuador	11.14%
13. El Salvador	2,675	13. Mexico	10.30%
14. Guatemala	2,175	14. Panama	9.98%
15. Paraguay	1,915	15. Paraguay	8.42%
16. Honduras	1,275	16. Argentina	5.92%
17. Bolivia, P.S.	1,230	17. Peru	4.42%
18. Nicaragua	875	18. Brazil	2.09%
19. Cuba	...	19. Bolivia	0.089%

Country	EDI Average (1998-2008)
1. Argentina	0.962
2. Cuba	0.975
3. Chile	0.960
4. Mexico	0.949
5. Uruguay	0.949
6. Panama	0.941
7. Costa Rica	0.937
8. Venezuela	0.926
9. Peru	0.922
10. Ecuador	0.912
11. Bolivia	0.901
12. Paraguay	0.901
13. Brazil	0.898
14. Colombia	0.884
15. Honduras	0.874
16. Dominican Republic	0.851
17. El Salvador	0.849
18. Nicaragua	0.785
19. Guatemala	0.781

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From the cross-analysis between the EDI average for each country and their respective average of education funding, the data shows that these two aspects do not necessarily have a direct relation. In other words, the progress achieved on the EFA Goals and a State's education budget are not directly related (e.g. as in the cases of Bolivia, Brazil, Colombia, and Honduras); however, it does have an influence, since the more funds some countries have destined to education, the higher their chance towards achieving progress on the EFA goals (e.g. Chile, Cuba, and Costa Rica).

The non-direct relation from these data also suggests that the allocation of funds to education derived from a State's National Budget does not depend on the wealth of that country (represented by the GNP), but on how much of a priority education is for that country and how well education governance is executed. This implies that the higher education is prioritized and managed, and the better education funds are allocated and implemented, the higher the probability a country has to progress towards achieving the EFA goals in specific and the improvement of the status of education overall. To measure this, however, it would require detailed research on the governance and budget management at local levels, as well as on the total and exact measurement of how much financial investment overall education in a country receives.

Moreover, as the Conclusion will serve to explain, the legislative framework (Constitutions, Laws of Education, and other respective pieces of legislation) of the six countries analyzed is in full harmony with the CDE provisions that set the minimum standards of education. However, as Table 9.2 shows, not all of these countries have a high EDI. This suggests that a country does not necessarily progress in the field of education at country-level even though a country may have a perfectly synchronized Law of Education and/or Constitutional education-related principles with the International Law regimenting education (in this case the CDE). Nevertheless, the legislative framework that regimes education at a national level can serve as concrete justification of, and thus as an instrument to strive to improve the condition of the right to education and education in general at country level.

## **Conclusion**

Education is a fundamental right of every single human being on this planet; a right that, after turmoil and devastating world wars, the International Community recognized on Article 26 of the 1948 Universal Declaration of Human Rights. This article established the minimum guidelines for education at an international level, i.e. as a right for students and parents that is free and compulsory, and directed towards the full development of each individual in unison with his or her community.

The Human Right to Education has been enshrined in various international normative instruments (see Chapter 1), and it is upheld as a fundamental right by most Constitutions worldwide. This right holds the power and potential of development, capacity-building, and innovation, providing endless possibilities to an individual and his and her community.

For the universal fulfillment of this right, the 1960 UNESCO Convention against Discrimination in Education (CDE) strives to eliminate discrimination in education by engaging States Parties into adopting measures aimed at promoting equality of opportunities and treatment in education. States Parties have the legally-binding responsibility to “formulate, develop and apply a national policy which, by methods appropriate to the circumstances and to national usage, will tend to promote equality of opportunity and of treatment in the matter of education. In other words, States must incorporate the provisions of the CDE in their national constitutions or domestic law and give effect to those provisions in their national legal system and their education policies” (UNESCO Education Sector, 2010, p.10).

The importance of the CDE, therefore, derives from the fact that it is the only international normative instrument dedicated exclusively to education. The concept of “Human Rights” should not only focus on what duties and responsibilities each of us have towards ourselves, our community and our planet Earth, individually or collectively, but should also focus on how these rights can be expanded to those who cannot directly enjoy them, i.e. the most vulnerable and marginalized groups of the world’s population.

National governance not only depends upon agreements, declarations, and social initiatives. In order to really carry out and implement these measures, progress and the social impact of governance depends significantly upon the amount of financial resources destined to a certain sector of the socio-economic safety net of a society, in this case education, AND, upon the management of these resources.

Currently, the EFA Goals target of 2015 is around the corner, and the International Community has once again gathered to stipulate a new agenda that goes beyond 2015. In June 2012, the UN System Task Team on the Post-2015 UN Development Agenda published the post-2015 agenda entitled “Realizing the Future We Want for All”<sup>1</sup>. Paragraph No. 66 of the Agenda reaffirms the importance of the Human Right to Education, specifically referring to universal access to quality educational services and its direct link to inclusive social development, which constitutes the post-2015 vision. Paragraph No. 67 establishes that childhood education, training and lifelong learning are of priorities for social development

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<sup>1</sup> The post-2015 agenda: [http://www.un.org/millenniumgoals/pdf/Post\\_2015\\_UNTTreport.pdf](http://www.un.org/millenniumgoals/pdf/Post_2015_UNTTreport.pdf)

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and investments. The Post-2015 vision sees education as an indispensable key for the inclusive economic growth, development and transformation necessary to respond to the challenges of our contemporary globalized community, and reaffirms Basic Education as a human right in itself and a condition for the realization of other rights.

The overall analysis that this thesis conducted was based on the educational legal framework for the six chosen countries, the EDI ranking of all nineteen Latin American countries, the average education funding between 2000 and 2012 for all nineteen Latin American countries, and upon ratification (or not) of the CDE.

Below, Table A displays the education-related provisions enshrined in the CDE and indicates if the legislative frameworks (i.e. Constitution, Law of Education, or any other pieces of legislation) of Bolivia, Colombia, Cuba, Guatemala, Mexico and Venezuela sanction these provisions. For a more detailed analysis of these provisions please re-consult the chapters dedicated to each country.

**Table A. CDE Provision Check List**

<b>CDE Provisions</b>	<b>Bolivia</b>	<b>Colombia</b>	<b>Cuba</b>	<b>Guatemala</b>	<b>Mexico</b>	<b>Venezuela</b>
<b>The Right to Education and its Principles (Preamble and Articles 3-5)</b>	✓	✓	✓	✓	✓	✓
<b>Non-Discrimination (Articles 1-3)</b>	✓	✓	✓	✓	✓	✓
<b>Primary and Secondary Education (Article 4)</b>	✓	✓	✓	✓	✓	✓
<b>Higher Education (Article 4)</b>	✓	✓	✓	✓	✓	✓
<b>Quality of Education (Article 4)</b>	✓	✓	✓	✓	✓	✓
<b>Continuing Education (Article 4)</b>	✓	✓	✓	✓	✓	✓
<b>Teacher Training (Article 4)</b>	✓	✓	✓	✓	✓	✓
<b>Human Development (Article 5)</b>	✓	✓	✓	✓	✓	✓
<b>Religious Education and Right of Parents (Article 5)</b>	✓	✓	✓	✓	✓	✓
<b>Minority Rights (Article 5)</b>	✓	✓	✓	✓	✓	✓

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From the overall cross-cutting analysis conducted by the research process and evidence provided by this thesis, the following observations can be derived:

- **There is an overall surging prevalence of recognizing minorities and their rights:**

At a legislative level, Bolivia, Colombia, Guatemala, Mexico and Venezuela have achieved to welcome and include the diversity of its peoples as a means to reduce exclusion, marginalization, and discrimination by finding unity within diversity. This is essential if a State is to promote and incarnate the principles of tolerance, understanding, friendship, and peace within and without its own borders, as enshrined in Article 5 of the CDE.

Cuban legislation enshrines the principle of non-discrimination, but it does not go into as much detail concerning cultural and linguistic diversity and the rights of minorities as the five others do. Mexico, on the other hand, is the only country that includes within its Law of Education “immigrants” as a minority group, and has the most developed rescue mechanism for minorities, i.e. the most provisions that in detail try to mitigate the risks of deviation and marginalization for vulnerable groups (i.e. the poor, the disabled, women, children, immigrants, and indigenous groups).

Since the second half of the 20<sup>th</sup> century and despite a violent history marked by exclusion and discrimination, minority groups, especially indigenous groups, have acquired voice in society through the gradual development and affirmation of their identity and rights as a people integral to a wider national identity. Mayan intellectual, Estuardo Zapeta, explains that under critical and repressive circumstances, groups that find themselves at a political and economic disadvantage, even though they may in reality be a majority that is appositely “minoritized” and naturally disorganized, can come together, unite, and organize as a way to resist and provide an alternative for society (King, 2000, p. 7). Unfortunately, these groups are pressured to unite when their right to education, in this case, has been actively used to reinforce political domination, subordination of marginalized groups and ethnic segregation (e.g. the case of South Africa with the Bantu Act as seen in Chapter 1). In Guatemala, for example, the education system was seen as a vehicle for cultural domination and the suppression of indigenous languages, fuelling wider resentments that led to the Civil War, since indigenous people saw the imposition of Spanish in schools as social discrimination (UNESCO, 2011, pp. 17 & 168).

- **Latin America unites to cooperate for literacy:**

The legislative and policy examples under the “continuing education” sub-division for each of the country’s chapters suggests that Latin American countries retain literacy to be a priority for the region’s population, and thus, an essential key of education and human development. Literacy is declared as a national urgency and priority in Constitutions and Laws of Education in all of the six countries. This suggests that literacy is not just a basic human learning step, i.e. learning numbers and the alphabet, but as a concrete tool that contributes to the psychological development of a human being (whether young or old) that facilitates the acquisition of the skills and capacities necessary to not only survive, but to

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thrive in life, society and the market. One of the aims of the process of literacy is to encourage youth and adults to develop and apply basic reading, writing and numeracy skills, which shall in turn prepare them to face difficult situations in their everyday lives.

Since the 1990s, the Latin American region has been cooperating by launching literacy initiatives that range from the local to the international level. Examples of these initiatives are Bolivia's Constitutional and legislative compromise to eradicate illiteracy and its participation in regional literacy missions; Cuba's *Yo, Sí Puedo* and the *Yo, Sí Puedo Seguir* Literacy Program implemented in almost 30 countries worldwide (mainly throughout Latin America); the Ibero-American Plan for Literacy and Basic Education for Youth and Adults 2007-2015; Colombia's Interactive System Transforming by Educating of *Fundación Transformemos* to counteract the negative consequences that conflict and war brings about in the field of education, and thus to help construct a peaceful society; Guatemala's Literacy Law and the role played by the National Committee on Literacy (CONALFA); Mexico's literacy programs in 46 indigenous languages carried out by the National Institute for Adult Education, as well as the Education for Life and Work Model program (*Modelo Educación para la Vida y el Trabajo*); and Venezuela's literacy missions (Robinson, Ribas, and Sucre).

A positive aspect about these literacy and post-literacy missions is that adult education and non-formal lifelong educational programs with special focus in education for the marginalized, not only coming from governments but also from civil society, are becoming institutionalized through national and regional policies and initiatives that aim to eradicate illiteracy and empower their respective populations (whether young or old) through education, e.g. through the creation of adult education systems or sub-systems, as enshrined in Constitutions and Laws of Education. In Bolivia, for example, the process of institutionalizing adult education started in 1997 after a National Congress on Alternative Education, and in 1999 a new curriculum was developed for adult primary, secondary and technical education, and implemented in over 400 education centers around the country with the assistance of the German Association for Adult Education (Torres, 2009, p.28). Funding for the execution of this program has come from various sources, e.g. the Government, churches, the private sector, social movements and international agencies.

A study conducted by UNESCO-OREALC in the late 1990s throughout seven Latin American countries (Argentina, Brazil, Colombia, Chile, Mexico, Paraguay and Venezuela) evidences that four years of schooling are not enough to ensure usable and sustainable reading and writing skills, and that the quality of education is of pivotal significance for this educational process. Studies recommend that in the Latin American region at least 12 years of schooling are necessary for literacy to be functional in the life of a person (Torres, 2009, p.16). Hence, lifelong learning literacy initiatives for youths and adults are and will always be an essential key for the development of the human being and his or her society.

- **Legislation has an organic nature:**

By “organic” nature, it means that a natural need surges for legislation to be updated in accordance to the pressing demands, issues and problems of the contemporary society, in this case, legislation and policies that establish the guidelines and regulate education – principally the Law of Education and Constitution of a country. With the evolution of human history, new problems and necessities surge according to the times and dynamics that affect a society. Legislation should thus reflect its reality and give voice to the pressing issues that society calls out for to be solved. This process can be seen with the socialist revolutions of Bolivia, Cuba, and Venezuela, which call out for the development of a new type of citizen and a new social economic model, as well as with Guatemala for the recognition and respect of cultural and linguistic diversity. Both of these tendencies are reflected in their respective education systems as established by their Laws of Education and Constitutions.

Another example is seen in the concept of “human development” that the six Laws of Education portray, specifically, the element of “sustainable environmental development” as integral part of human development. Here, education is considered a means to achieve an environmental human consciousness, which represents a contemporary urgent necessity derived from the post-industrial and oil era that has brought about the environmental degradation of the planet and climate change – phenomena that affect the human condition and life itself.

The notion of flexibility and adaptation of legislation, i.e. its organic nature, also applies to the Human Right to Education. Through the analysis conducted on the legislative framework of the six countries, and as Table A above shows, countries play a role in defining the content and characteristics of the right to education at country-level and in general. Each of the Laws of Education, as well as their respective Constitutions, revealed that legislation reflects the reality and aims to respond to the issues, demands, and problems of a society, and thus, its need to be constantly undergoing reforms and amendments in accordance to the issues, demands, and problems that surge throughout history. The right to education is thus defined by each country depending on their particular issues, demands, and problems. Nevertheless, the right to education will continue to maintain the international provisions regarding the minimum standards of education, as enshrined in the CDE. These are minimum standards that all six countries enshrine within their respective educational legislative frameworks, and enrich depending on the particular issues, demands, and problems their respective societies face. This suggests that the process of creating international law is a top-down and bottom-up process carried out among the International Community as well as between the States and their peoples.

- **The Federalist approach to the distribution of education-related powers between the State and its federal entities allows education to be more inclusive and have a more effective impact at a local level:**

Decentralization to the distribution of education-related powers between the State and its local entities serves as a tool that can help facilitate the process of managing the national education system, specifically, of making sure that education reaches everyone that inhabits a country's territory. This means that the right to education can be more effectively implemented at country-level, i.e. from the national to the local.

The Laws of Education analyzed in this thesis develop the local role, some more in detail than others, e.g. by listing the functions and competences allowed to federal education authorities, or even by defining the role that parents, the private sector, and the community can play within the national educational process. By assigning competences and duties to local education authorities, and by expanding the network involved in education at a local level (e.g. participation of the civil society, local authorities, parents, teachers, and students), for example, the provisions of these laws have a higher possibility of being implemented correctly. Decentralization is sometimes seen as a solution to politicizing of education in central governments, since devolution of authority to local government and schools can strengthen the voice of local communities if community-based systems are well developed and accompanied by support for capacity-building (UNESCO, 2011, p. 247).

- **Latin America could achieve integration starting from a cultural level:**

Latin America could achieve regional integration starting from a cultural level, e.g. through education initiatives, rather than through mere economic initiatives. A cultural-based integration could be more effective due to the harmony and similarities among the Laws of Education and Constitutions of these six countries in comparison with one another as well as with the international standards for education.

The historical background provided by all six countries, whether through legislation or main historical events cited in the chapters, evidences that Latin America has a common thread that unites them: the consequences derived from Latin America's colonial past. These consequences encompass – other than the overall national history of these countries that fought for independence, and continued to fight wars due to inequalities derived from the colonial established system – a legacy of a common language, the survival of local indigenous dialects, and the various autochthonous indigenous populations. These inequalities mixed with cultural and ethnical differences and the suppression of these differences by a dominant social group have led to civil wars and the demand for the rights of these peoples to be recognized. The colonial past of Latin America could hold a key to Latin America's integration beginning at a socio-cultural level. A cultural-based integration could give way to a more comprehensive integration that would encompass a more integrated economic, occupational, and transportation system at a regional level.

However, even though there are concrete and strong similarities that unite Latin American countries at a cultural level, there are still significant differences throughout the region. For example, the Laws of Education of each of the six countries analyzed for this



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thesis reflect the reality and status of different institutional development at country-level. The countries that have the most organized, formal, and advanced institutional structure – which includes their Constitutions, federal system, laws, and judicial system – are Colombia and Mexico. Bolivia, Cuba, and Guatemala appear to have a less developed institutional system due to their socialist reforms and revolutions (Cuba and Bolivia), as well as to their weak economic power and the existence of a prevalent indigenous population (Bolivia and Guatemala). Instead, Venezuela oscillates between the most and the least advanced institutional systems due to the Social Revolution under President Hugo Rafael Chávez Frías in 1999 and to the relatively high economic power that the country has. However, Venezuela’s non-discrimination legislative framework is the richest out of all six countries. The educational process in Mexico and Colombia focus more on and are more connected to the economy and the market, rather than to the recognition of minorities and cultural diversity, which is the main and prevalent focus in Bolivia, Guatemala, and Venezuela. Under this respect, Cuba does not fit in either of the groups, since its legislation is simple and provides the absolute minimum standards of education as a public good. Not to mention that Cuba’s principal pieces of legislation concerning education have not been reformed since their enactment in the late 1950s and early 1960s.

These observations are not implying that these differences are neither necessarily good nor bad. They represent different visions and styles of governance and socio-economic advocacy that is reflected in their respective pieces of legislation. An indicator that can serve to “judge” these visions is the more or less harmony that these pieces of legislation have with the standards established by the international normative instruments regulating the Human Right to Education, mainly the CDE. In this case, as Table A displayed above, all of these six countries are in legal harmony with the CDE, whether they are States Parties to it (Cuba, Guatemala, and Venezuela) or not (Bolivia, Colombia, and Mexico).

Another difference that the research conducted for this thesis reveals is the unequal economic power between the nineteen Latin American countries. For a more detailed analysis, please refer to Chapter 2. Moreover, educational progress inequalities are also evident in the region (please refer to Chapter 9). This suggests, once again, that even if a country or all countries of a region, as a matter of fact, have a legal framework that is 100% in harmony with international law (in this case the CDE for it concerns the right to education), actual progress is not an automatic given. The key for progress comes down to national governance and cooperation amongst all the actors involved in the educational process of a specific country (whether local, national, regional, international, public or private).

- **Financing education is thus an inalienable requirement:**

How can all of the principles enshrined in legislation have a social impact? How can all these education systems be carried out and live up to the principles they uphold? In order to execute the system of principles and duties that these Laws of Education and Constitutions profess, government funding must also be a responsibility that flows at a constant and increasing pace in order to make quality education free of charge, accessible, and available for all. An education system cannot be sustained without resources, thus, a vital element for its sustainability are the funds that are destined to it by national governments.

Even though the CDE does not explicitly sanction the duty for States Parties to destine a total amount of financial funding to their respective education systems, it does however specify that States shall “make primary education free; make secondary education in its different forms generally available and accessible to all; make higher education equally accessible to all” (Article 4a). It further sanctions “equality of treatment, merit-based and need-based, in the matter of school fees and financial assistance” (Article 3). This suggests that financing education is a duty for States to abide by in order to make education free, available, and accessible for all, especially for those most marginalized and vulnerable at a socio-economic level. From the legal analysis conducted for this thesis, the legislation of all six countries reveal that governments take up the duty, responsibility, and obligation to provide funding for education, however, as Chapter 2 evidences, not all governments destine significant amounts of budget allocation to education nor make education a first national priority.

- **From a legal perspective, Bolivia, Colombia and Mexico are eligible to ratify the CDE:**

Without knowing that Bolivia, Colombia, and Mexico have not yet ratified the 1960 UNESCO Convention against Discrimination in Education, the conducted analysis not only suggests that Bolivia’s 2010 Avelino Siñani-Elizardo Pérez Law of Education No. 70, Colombia’s Law of General Education No. 115, and Mexico’s General Law of Education were not only designed around the CDE, but also demonstrates how the CDE serves as an effective tool that can give States Parties the freedom to implement the Human Right to Education at a national and cultural-specific level.

States Parties have the legally-binding responsibility to “formulate, develop and apply a national policy which, by methods appropriate to the circumstances and to national usage, will tend to promote equality of opportunity and of treatment in the matter of education” (UNESCO Education Sector, 2010, p.10). Even though these three countries have not yet ratified the CDE, their respective Laws of Education are rich in content of the principles and duties established by the CDE. Thus, these three Laws of Education constitute an incentive for Bolivia, Colombia, and Mexico to ratify and become an official State Parties to the CDE in order to continue and improve the protection, fulfillment and expansion of the right to education for all at country level.

Other than the politically and bureaucratic setbacks that may impede or slowdown the ratification process – such as the slow process to ratify international conventions or to ratify legislation in Congress, or the actual negative vote from groups in Congress to pass certain pieces of legislation or provisions that can jeopardize some of their political and economic interests – the main impediment that may be holding these countries back from ratification is the economic compromise that ratifying the CDE may impose on countries, i.e. the cost that the right to education brings to a government. This cost, however, has been taken up as a duty and responsibility by all six countries under analysis at a legislative level, both in their Constitutions and Laws of Education.

- **The CDE must be revised and updated:**

The Constitutions and Laws of Education that this thesis analyzed are examples of how more elaborate and inclusive international law on education could be. In these pieces of legislation there are exhaustive provisions – in some more than others – that tackle contemporary challenges; a challenge itself that the CDE must affront, e.g. including specific minorities groups, such as the disabled, women, girls, as well as new challenges such as gender equality, ecologic awareness, and the financing of education. The CDE should also include “the right to education” as a provision of its own. Furthermore, “age” is usually ignored as a discrimination element in education. “Age” is not mentioned in the CDE, the 1966 International Covenant on Economic, Social and Cultural Rights, or the 1966 International Covenant on Civil and Political Rights. As the country analysis has shown in the previous chapters, people out of normal school age, mainly adults, are considered as a target population by legislation, policies, and programs, e.g. as seen in the provisions of the Laws of Education regarding adult education and literacy, as well as literacy missions throughout the Latin American region. As the organic nature of legislation suggested above, the CDE is too an international piece of legislation that should also undergo the process of actualization that responds to the pressing issues and realities of contemporary societies.

- **The Right to Education is a global priority:**

As William Kymlicka explains: “Rights discourse provides a vocabulary for articulating moral relations that have universal validity and a legal framework for entrenching the protection of basic interests in the constitution of a country” (2000, p. 280). Education is a universal social moral concern, even though national governments around the world carry it out and implement it at a national level through means that are dependent upon their historical, cultural, demographic, geographic, financial, and political conditions, as well as at an international level through the integrated and interconnect process of good governance.

As Article 1 of the Mexican Constitution declares, education is a fundamental means to acquire, transmit, and enhance culture; a permanent process that contributes to the permanent development of the individual and to the transformation of society. It is also a determining factor for the acquisition of knowledge and to educate women and men so that they may have a sense of solidarity and social responsibility. The legislative analysis conducted for this thesis evidences that by making education a social responsibility, the entire community has both rights and duties. The legal frameworks analyzed not only declare education as a right, but also as a duty that are to be both enjoyed and abided by the main actors involved in the field of education, i.e. parents, students, the entire education staff, and citizens, and overall in the development of society. Fortunately, to protect these rights and duties, some of the Laws of Education (Colombia, Guatemala, Mexico, and Venezuela) explicitly develop a sanction system and/or mechanism to file for the violations of the provisions within the respective Laws of Education. At an international level, the

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CONCLUSION

International Community has recognized the importance of education as a human right and has developed regional and international justice mechanisms<sup>2</sup>.

The overall research and work of this thesis suggests that the Human Right to Education shall continue to evolve and shall continue to have the permanent goal of improving education worldwide (as the UN's Post-2015 Agenda demonstrates) in order to allow human beings to improve their own cultural-specific life condition in responsible unison with their community and the Earth.

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<sup>2</sup> Judicial mechanisms that contribute to the protection and defense of the right to education at an international level are: the International Court of Justice; the Human Rights Council Complaint Procedure; Individual Complaints Procedure to the Human Right Committee; Individual/Group Complaints Mechanism to the CEDAW; Individual/Group Complaints Mechanism to the CERD. While at a regional level are: the European Court on Human Rights (Individual Complaints); the European Committee on Social Rights (Collective Complaints); the Inter-American Commission and Inter-American Court on HR (Individual Complaints); the African Court on Human Rights. Nevertheless, at national level Constitutional Courts and other types of courts and ombudsmen also contribute to the protection and defense of the right to education.

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**CHAPTER 2 ANNEXES:**

**Latin American State Treasuries:**

<b>COUNTRY</b>	<b>TREASURIES</b>	<b>LINKS</b>
1. Argentina	Ministerio de Economía y Finanzas Públicas	<a href="http://www.mecon.gov.ar/finanzas/">http://www.mecon.gov.ar/finanzas/</a>
2. Bolivia, P.S.	Ministerio de Economía y Finanzas Públicas	<a href="http://www.economiayfinanzas.gob.bo/">http://www.economiayfinanzas.gob.bo/</a>
3. Brazil	Ministério da Fazenda do Bresil	<a href="http://www.fazenda.gov.br/">http://www.fazenda.gov.br/</a>
4. Chile	1. Ministerio de Hacienda 2. Ministerio de Economía, Fomento y Turismo	1. <a href="http://www.minhda.cl/">http://www.minhda.cl/</a> 2. <a href="http://www.economia.gob.cl/">http://www.economia.gob.cl/</a>
5. Colombia	Ministerio de Hacienda y Crédito Público	<a href="http://www.minhacienda.gov.co/MinHacienda">http://www.minhacienda.gov.co/MinHacienda</a>
6. Costa Rica	Ministerio de Hacienda	<a href="https://www.hacienda.go.cr/msib21/espanol/default.htm">https://www.hacienda.go.cr/msib21/espanol/default.htm</a>
7. Cuba	Ministerio de Finanzas y Precios	<a href="http://www.mfp.cu/mfp.php">http://www.mfp.cu/mfp.php</a>
8. Dominican Republic	Ministerio de Hacienda	<a href="http://www.hacienda.gov.do/">http://www.hacienda.gov.do/</a>
9. Ecuador	Ministerio de Finanzas del Ecuador	<a href="http://finanzas.gob.ec/portal/page?_pageid=1965,1&amp;_dad=portal&amp;_schema=PORTAL">http://finanzas.gob.ec/portal/page?_pageid=1965,1&amp;_dad=portal&amp;_schema=PORTAL</a>
10. El Salvador	1. Ministerio de Hacienda 2. Ministerio de Economía	1. <a href="http://www.mh.gob.sv/portal/page/portal/PMH/">http://www.mh.gob.sv/portal/page/portal/PMH/</a> 2. <a href="http://www.minec.gob.sv/">http://www.minec.gob.sv/</a>
11. Guatemala	Ministerio de Economía	<a href="http://www.mineco.gob.gt/presentacion/principal.aspx">http://www.mineco.gob.gt/presentacion/principal.aspx</a>
12. Honduras	Secretería de Finanzas	<a href="http://www.sefin.gob.hn/">http://www.sefin.gob.hn/</a>
13. Mexico	1. Secretería de Economía 2. Secretería de Hacienda y Crédito Público	1. <a href="http://www.economia.gob.mx/swb/swb/">http://www.economia.gob.mx/swb/swb/</a> 2. <a href="http://www.shcp.gob.mx/Paginas/default.aspx">http://www.shcp.gob.mx/Paginas/default.aspx</a>
14. Nicaragua	Ministerio de Hacienda y Crédito Público	<a href="http://www.hacienda.gob.ni/">http://www.hacienda.gob.ni/</a>
15. Panama	Ministerio de Economía y Finanzas	<a href="http://www.mef.gob.pa/portal/default.html">http://www.mef.gob.pa/portal/default.html</a>
16. Paraguay	Ministerio de Hacienda	<a href="http://www.hacienda.gov.py/web-hacienda/index.php">http://www.hacienda.gov.py/web-hacienda/index.php</a>
17. Peru	Ministerio de Economía y Finanzas	<a href="http://www.mef.gob.pe/">http://www.mef.gob.pe/</a>
18. Uruguay	Ministerio de Economía y Finanzas	<a href="http://www.mef.gub.uy/portada.php">http://www.mef.gub.uy/portada.php</a>
19. Venezuela, B.R.	Ministerio de Finanzas	<a href="http://www.mf.gov.ve/">http://www.mf.gov.ve/</a>

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**NATIONAL BUDGET SOURCES BY COUNTRY AND YEAR:**

**ARGENTINA**

<http://www.mecon.gov.ar/onp/html/#>

- 2002: <http://www.mecon.gov.ar/onp/html/presupresumen/resum02.pdf> (p.82) Budget destined to the Ministerio de Educación, Ciencia y Tecnología
- 2003: <http://www.mecon.gov.ar/onp/html/presupresumen/resum03.pdf> (p.127) Budget destined to the Ministerio de Educación, Ciencia y Tecnología
- 2004: <http://www.mecon.gov.ar/onp/html/presupresumen/resum04.pdf> (Cuadro N. 16) Budget destined to the Ministerio de Educación, Ciencia y Tecnología
- 2005: <http://www.mecon.gov.ar/onp/html/presupresumen/resum05.pdf> (p.122) Budget destined to the Ministerio de Educación, Ciencia y Tecnología
- 2006: <http://www.mecon.gov.ar/onp/html/presupresumen/resum06.pdf> (p.134) Budget destined to the Ministerio de Educación, Ciencia y Tecnología
- 2007: <http://www.mecon.gov.ar/onp/html/presupresumen/resum07.pdf> (p.143) Budget destined to the Ministerio de Educación, Ciencia y Tecnología
- 2008: <http://www.mecon.gov.ar/onp/html/presupresumen/resum08.pdf> (Cuadro N.16) Budget destined to the Ministerio de Educación
- 2009: <http://www.mecon.gov.ar/onp/html/presupresumen/resum09.pdf> (Cuadro N.16) Budget destined to the Ministerio de Educación
- 2010: <http://www.mecon.gov.ar/onp/html/presupresumen/resum10.pdf> (Cuadro N.16) Budget destined to the Ministerio de Educación
- 2011: [http://www.mecon.gov.ar/onp/html/presutexto/proy2010/plurianual/plurianual2010-2012\\_actualizado.pdf](http://www.mecon.gov.ar/onp/html/presutexto/proy2010/plurianual/plurianual2010-2012_actualizado.pdf) Budget destined to the Ministerio de Educación
- 2012: [http://www.mecon.gov.ar/onp/html/presutexto/proy2010/plurianual/plurianual2010-2012\\_actualizado.pdf](http://www.mecon.gov.ar/onp/html/presutexto/proy2010/plurianual/plurianual2010-2012_actualizado.pdf) Budget destined to the Ministerio de Educación

**BOLIVIA**

[http://www.economiayfinanzas.gob.bo/index.php?opcion=com\\_contenido&ver=contenido&id=700&id\\_item=402](http://www.economiayfinanzas.gob.bo/index.php?opcion=com_contenido&ver=contenido&id=700&id_item=402)

2001:

[http://medios.economiayfinanzas.gob.bo/VPC/documentos/presupuestos/ppto2001/ppto2001/r\\_fpr\\_ni\\_grp\\_gas11111.pdf](http://medios.economiayfinanzas.gob.bo/VPC/documentos/presupuestos/ppto2001/ppto2001/r_fpr_ni_grp_gas11111.pdf) Budget destined to the Central Administration and amount of budget destined to the Ministerio de Educación, Cultura y Deportes. [

<http://medios.economiayfinanzas.gob.bo/VPC/documentos/presupuestos/ppto2001/index.htm> Total National Budget].

2002:

[http://medios.economiayfinanzas.gob.bo/VPC/documentos/presupuestos/ppto2002/ppto2002/r\\_fpr\\_ni\\_grp\\_gas11111.pdf](http://medios.economiayfinanzas.gob.bo/VPC/documentos/presupuestos/ppto2002/ppto2002/r_fpr_ni_grp_gas11111.pdf) Budget destined to the Central Administration and amount of budget destined to the Ministerio de Educación, Cultura y Deportes.

[<http://medios.economiayfinanzas.gob.bo/VPC/documentos/presupuestos/ppto2002/ppto2002/leyfinancial.pdf> Total National Budget].

2003:

[http://medios.economiayfinanzas.gob.bo/VPC/documentos/presupuestos/ppto2003/ppto2003/r\\_fpr\\_ni\\_grp\\_gas11111.pdf](http://medios.economiayfinanzas.gob.bo/VPC/documentos/presupuestos/ppto2003/ppto2003/r_fpr_ni_grp_gas11111.pdf) Budget destined to the Central Administration and amount of budget destined to the Ministerio de Educación, Cultura y Deportes.

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[<http://medios.economiayfinanzas.gob.bo/VPC/documentos/presupuestos/ppto2003/ppto2003/leyfinancial.pdf> Total National Budget].

2004:

[http://medios.economiayfinanzas.gob.bo/VPC/documentos/presupuestos/ppto2004/ppto2004/r\\_fpr\\_ni\\_grp\\_gas11111.pdf](http://medios.economiayfinanzas.gob.bo/VPC/documentos/presupuestos/ppto2004/ppto2004/r_fpr_ni_grp_gas11111.pdf) Budget destined to the Central Administration and amount of budget destined to the Ministerio de Educación.

[<http://medios.economiayfinanzas.gob.bo/VPC/documentos/presupuestos/ppto2004/ppto2004/leyfinancial.pdf> Total National Budget].

2005:

[http://medios.economiayfinanzas.gob.bo/VPC/documentos/presupuestos/ppto2005/ppto2005/r\\_fpr\\_ni\\_grp\\_gas11111.pdf](http://medios.economiayfinanzas.gob.bo/VPC/documentos/presupuestos/ppto2005/ppto2005/r_fpr_ni_grp_gas11111.pdf) Budget destined to the Central Administration and amount of budget destined to the Ministerio de Educación.

[<http://medios.economiayfinanzas.gob.bo/VPC/documentos/presupuestos/ppto2005/ppto2005/leyfinancial.pdf> Total National Budget].

2006:

[http://medios.economiayfinanzas.gob.bo/VPC/documentos/presupuestos/ppto2006/ppto2006/r\\_fpr\\_ni\\_grp\\_gas11111.pdf](http://medios.economiayfinanzas.gob.bo/VPC/documentos/presupuestos/ppto2006/ppto2006/r_fpr_ni_grp_gas11111.pdf) Budget destined to the Central Administration and amount of budget destined to the Ministerio de Educación.

[[http://medios.economiayfinanzas.gob.bo/VPC/documentos/presupuestos/ppto2006/ppto2006/ley\\_3302.pdf](http://medios.economiayfinanzas.gob.bo/VPC/documentos/presupuestos/ppto2006/ppto2006/ley_3302.pdf) Total National Budget].

2007:

[http://medios.economiayfinanzas.gob.bo/VPC/documentos/presupuestos/ppto2007/ppto2007/r\\_fpr\\_ni\\_grp\\_gas11111.pdf](http://medios.economiayfinanzas.gob.bo/VPC/documentos/presupuestos/ppto2007/ppto2007/r_fpr_ni_grp_gas11111.pdf) Budget destined to the Central Administration and amount of budget destined to the Ministerio de Educación y Culturas.

[[http://medios.economiayfinanzas.gob.bo/VPC/documentos/presupuestos/ppto2007/ppto2007/ley\\_ppto2007.pdf](http://medios.economiayfinanzas.gob.bo/VPC/documentos/presupuestos/ppto2007/ppto2007/ley_ppto2007.pdf) Total National Budget].

2008:

[http://medios.economiayfinanzas.gob.bo/VPC/documentos/presupuestos/ppto2008/ppto2008/r\\_fpr\\_ni\\_grp\\_gas11111.pdf](http://medios.economiayfinanzas.gob.bo/VPC/documentos/presupuestos/ppto2008/ppto2008/r_fpr_ni_grp_gas11111.pdf) Budget destined to the Central Administration and amount of budget destined to the Ministerio de Educación y Culturas.

[[http://medios.economiayfinanzas.gob.bo/VPC/documentos/presupuestos/ppto2008/ppto2008/Ley\\_Gestion\\_2008.pdf](http://medios.economiayfinanzas.gob.bo/VPC/documentos/presupuestos/ppto2008/ppto2008/Ley_Gestion_2008.pdf) Total National Budget].

2009:

[http://medios.economiayfinanzas.gob.bo/VPC/documentos/presupuestos/ppto2009/ppto2009/r\\_fpr\\_ni\\_grp\\_gas11111.pdf](http://medios.economiayfinanzas.gob.bo/VPC/documentos/presupuestos/ppto2009/ppto2009/r_fpr_ni_grp_gas11111.pdf) Budget destined to the Central Administration and amount of budget destined to the Ministerio de Educación y Culturas.

[[http://medios.economiayfinanzas.gob.bo/VPC/documentos/presupuestos/ppto2009/ppto2009/Disposicion\\_Legal\\_PGN\\_2009.pdf](http://medios.economiayfinanzas.gob.bo/VPC/documentos/presupuestos/ppto2009/ppto2009/Disposicion_Legal_PGN_2009.pdf) Total National Budget].

2010: [http://medios.economiayfinanzas.gob.bo/MH/documentos/ppto2010/r\\_fpr\\_ni\\_grpgas11120.pdf](http://medios.economiayfinanzas.gob.bo/MH/documentos/ppto2010/r_fpr_ni_grpgas11120.pdf)

Total budget destined to the Executive Organ and amount to the Ministerio de Educación, and,

[http://medios.economiayfinanzas.gob.bo/MH/documentos/ppto2011/ppto2011/r\\_fpr\\_ni\\_grpgas\\_tipg11400.pdf](http://medios.economiayfinanzas.gob.bo/MH/documentos/ppto2011/ppto2011/r_fpr_ni_grpgas_tipg11400.pdf) budget destined to Public Universities.

[<http://medios.economiayfinanzas.gob.bo/MH/documentos/PGE2010.htm> Total National Budget].

2011:

[http://medios.economiayfinanzas.gob.bo/MH/documentos/ppto2011/ppto2011/r\\_fpr\\_ni\\_grpgas11120.pdf](http://medios.economiayfinanzas.gob.bo/MH/documentos/ppto2011/ppto2011/r_fpr_ni_grpgas11120.pdf)

Total budget destined to the Executive Organ and amount to the Ministerio de Educación, and,

[http://medios.economiayfinanzas.gob.bo/MH/documentos/ppto2011/ppto2011/r\\_fpr\\_ni\\_grpgas11400.pdf](http://medios.economiayfinanzas.gob.bo/MH/documentos/ppto2011/ppto2011/r_fpr_ni_grpgas11400.pdf) amount destined to Public Universities.

[<http://medios.economiayfinanzas.gob.bo/MH/documentos/ppto2011/index.htm> Total National Budget].

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**BRAZIL**

<http://www.planejamento.gov.br/secretaria.asp?cat=50&sec=8>

- 2000: <http://sidornet.planejamento.gov.br/docs/lei2000/index.htm> Budget destined to the *Ministério da Educação*
- 2001: <http://sidornet.planejamento.gov.br/docs/lei2001/index.htm> Budget destined to the *Ministério da Educação*
- 2002: <http://sidornet.planejamento.gov.br/docs/lei2002/index.htm> Budget destined to the *Ministério da Educação*
- 2003: <http://sidornet.planejamento.gov.br/docs/lei2003/index.htm> Budget destined to the *Ministério da Educação*
- 2004: <http://sidornet.planejamento.gov.br/docs/lei2004/index.htm> Budget destined to the *Ministério da Educação*
- 2005: <http://sidornet.planejamento.gov.br/docs/lei2005/index.htm> Budget destined to the *Ministério da Educação*
- 2006: <http://sidornet.planejamento.gov.br/docs/lei2006/> Budget destined to the *Ministério da Educação*
- 2007: [http://www.planejamento.gov.br/secretarias/upload/Legislacao/Leis/070207\\_Lei\\_11451\\_anexos.pdf](http://www.planejamento.gov.br/secretarias/upload/Legislacao/Leis/070207_Lei_11451_anexos.pdf) (p.2) Budget destined to the *Ministério da Educação*
- 2008: [http://www.planejamento.gov.br/secretarias/upload/Legislacao/Leis/080324\\_lei\\_11647\\_anexos.pdf](http://www.planejamento.gov.br/secretarias/upload/Legislacao/Leis/080324_lei_11647_anexos.pdf) (p.2) Budget destined to the *Ministério da Educação*
- 2009:  
[http://www.planejamento.gov.br/secretarias/upload/Arquivos/sof/orcamento\\_09/loa09/Loa\\_2009\\_anexo\\_1.pdf](http://www.planejamento.gov.br/secretarias/upload/Arquivos/sof/orcamento_09/loa09/Loa_2009_anexo_1.pdf) (p.2) Budget destined to the *Ministério da Educação*
- 2010: [http://www.planejamento.gov.br/secretarias/upload/Legislacao/Leis/100126\\_lei\\_12214\\_anexoII.pdf](http://www.planejamento.gov.br/secretarias/upload/Legislacao/Leis/100126_lei_12214_anexoII.pdf) Budget destined to the *Ministério da Educação*
- 2011: [https://www.portalsof.planejamento.gov.br/sof/orc\\_2011/L12381\\_11\\_Anexo\\_II.pdf](https://www.portalsof.planejamento.gov.br/sof/orc_2011/L12381_11_Anexo_II.pdf) Budget destined to the *Ministério da Educação*
- 2012:  
[http://www.planejamento.gov.br/secretarias/upload/Arquivos/sof/orcamento\\_12/L12595\\_12\\_Anexo\\_II.pdf](http://www.planejamento.gov.br/secretarias/upload/Arquivos/sof/orcamento_12/L12595_12_Anexo_II.pdf) Budget destined to the *Ministério da Educação*, and  
[http://www.planejamento.gov.br/secretarias/upload/Arquivos/sof/orcamento\\_12/LOA\\_2012\\_Lei\\_n\\_12595.pdf](http://www.planejamento.gov.br/secretarias/upload/Arquivos/sof/orcamento_12/LOA_2012_Lei_n_12595.pdf) Total National Budget

**CHILE**

<http://www.dipres.gob.cl/572/propertyvalue-2129.html>

- 2000: [http://www.dipres.gob.cl/572/articles-37477\\_doc\\_pdf.pdf](http://www.dipres.gob.cl/572/articles-37477_doc_pdf.pdf) (p.15) National Budget and Budget destined to the Ministerio de Educación
- 2001: [http://www.dipres.gob.cl/572/articles-37474\\_doc\\_pdf.pdf](http://www.dipres.gob.cl/572/articles-37474_doc_pdf.pdf) (p.15) National Budget and Budget destined to the Ministerio de Educación
- 2002: [http://www.dipres.gob.cl/572/articles-37469\\_doc\\_pdf.pdf](http://www.dipres.gob.cl/572/articles-37469_doc_pdf.pdf) (p.11) National Budget and [http://www.dipres.gob.cl/574/articles-12482\\_doc\\_pdf.pdf](http://www.dipres.gob.cl/574/articles-12482_doc_pdf.pdf) Budget destined to the Ministerio de Educación,
- 2003: [http://www.dipres.gob.cl/572/articles-37467\\_doc\\_pdf.pdf](http://www.dipres.gob.cl/572/articles-37467_doc_pdf.pdf) (p.15) National Budget and Budget destined to the Ministerio de Educación
- 2004: [http://www.dipres.gob.cl/572/articles-37463\\_doc\\_pdf.pdf](http://www.dipres.gob.cl/572/articles-37463_doc_pdf.pdf) (p.15) National Budget and Budget destined to the Ministerio de Educación
- 2005: [http://www.dipres.gob.cl/572/articles-37459\\_doc\\_pdf.pdf](http://www.dipres.gob.cl/572/articles-37459_doc_pdf.pdf) (p.15) National Budget and Budget destined to the Ministerio de Educación
- 2006: [http://www.dipres.gob.cl/572/articles-37452\\_doc\\_pdf.pdf](http://www.dipres.gob.cl/572/articles-37452_doc_pdf.pdf) (p.15) National Budget and Budget destined to the Ministerio de Educación



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- 2007: [http://www.dipres.gob.cl/572/articles-37444\\_doc\\_pdf.pdf](http://www.dipres.gob.cl/572/articles-37444_doc_pdf.pdf) (p.10) National Budget and Budget destined to the Ministerio de Educación
- 2008: [http://www.dipres.gob.cl/572/articles-37004\\_doc\\_pdf.pdf](http://www.dipres.gob.cl/572/articles-37004_doc_pdf.pdf) (p.9) National Budget and Budget destined to the Ministerio de Educación
- 2009: [http://www.dipres.gob.cl/572/articles-44329\\_doc\\_pdf.pdf](http://www.dipres.gob.cl/572/articles-44329_doc_pdf.pdf) (p.15) National Budget and Budget destined to the Ministerio de Educación
- 2010: [http://www.dipres.gob.cl/572/articles-62230\\_doc\\_pdf.pdf](http://www.dipres.gob.cl/572/articles-62230_doc_pdf.pdf) (p.12) National Budget and Budget destined to the Ministerio de Educación
- 2011: [http://www.dipres.gob.cl/572/articles-72885\\_doc\\_pdf.pdf](http://www.dipres.gob.cl/572/articles-72885_doc_pdf.pdf) (p.11) National Budget and Budget destined to the Ministerio de Educación
- 2012: [http://www.dipres.gob.cl/572/articles-76644\\_pres\\_2012.pdf](http://www.dipres.gob.cl/572/articles-76644_pres_2012.pdf) (p.5) National Budget and Budget destined to the Ministerio de Educación

COLOMBIA

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- [http://www.mef.gob.pe/contenidos/presu\\_publico/sectr\\_publico/proye\\_2011/Proyecto\\_Ley\\_Equilibrio\\_Financiero2011.pdf](http://www.mef.gob.pe/contenidos/presu_publico/sectr_publico/proye_2011/Proyecto_Ley_Equilibrio_Financiero2011.pdf) National Budget Law
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**CHAPTER 9 ANNEXES:**

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**Annex on candidate indicators for the Right to Education (Chapman, 2007, p. 139):**

(NB. The **bold underlined text** serves to highlight indicators that I added based on the research conducted for this thesis).

**STRUCTURAL INDICATORS**

Which levels of the political system have responsibilities to implement the right to education?

- a. National (yes/no)
- b. Regional, state, or provincial level (yes/no)
- c. Local, town, or municipal level (yes/no)

**Constitutional Provisions:**

Does the country's Constitution include education as a right? (yes/no)

If so,

- a. Is the provision of universal education a directive principle of state policy? (yes/no)
- b. Is the right to education an entitlement? (yes/no)
  - for universal primary education? (yes/no)
  - for universal secondary education? (yes/no)
  - **for minority groups? (yes/no)**
  - **for parents to have liberty in choosing their child's education? (yes/no)**
  - **for teachers as a right to fair pay and training? (yes/no)**
- c. Does the Constitution specify the right of access to education without discrimination? (yes/no)
- d. Does the Constitution recognize the right of adults who have not received or completed the whole period of their primary education to a basic education? (yes/no)

**Legislation:**

- Does the state have legislation expressly recognizing the right to education? (yes/no)
- Does the legislation recognize the right of children to a place in primary school? (yes/no)
- Is there legislation making primary education compulsory? (yes/no)
- If there is legislation making education compulsory, specify the ages and/or number of years:
  - a. Compulsory beginning at age \_\_\_\_\_
  - b. Compulsory ending at age \_\_\_\_\_
  - c. Compulsory for \_\_\_\_\_ number of years
- Is there legislation making primary education free to all? (yes/no)
- Is there legislation expressly prohibiting local governments or schools from charging supplementary fees for:
  1. Books? (yes/no)
  2. School supplies? (yes/no)
  3. Construction or maintenance of school buildings? (yes/no)

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4. Teacher's salaries? (yes/no)

- **Is there legislation providing for the right of access to grants/scholarships/credits/loans for students? (yes/no)**

- **Is there legislation providing for:**

- **School meals (yes/no)**

- **School supplies (yes/no)**

- **School transportation (yes/no)**

- Is there legislation providing for the right of access to public educational institutions and programs on a non-discrimination for students on the basis of:

1. Sex? (yes/no)

2. Race or color? (yes/no)

3. Language? (yes/no)

4. Religion? (yes/no)

5. Political or other opinion? (yes/no)

6. National or social origin? (yes/no)

7. Financial resources? (yes/no)

- Is there legislation expressly prohibiting discrimination in the recruitment and promotion of teachers on the basis of:

1. Sex? (yes/no)

2. Race or color? (yes/no)

3. Language? (yes/no)

4. Religion? (yes/no)

5. Political or other opinion? (yes/no)

6. National or social origin? (yes/no)

7. Financial resources? (yes/no)

- Is there legislation recognizing the right of handicapped people with disabilities to education? (yes/no)

- If so, does the legislation make provision for the necessary equipment and support to enable handicapped students to attend school? (yes/no)

- **Is there legislation recognizing the right of vulnerable groups to education? (yes/no)**

- Is there legislation prohibiting early marriages (below the age of 16) that would interfere with school attendance? (yes/no)

- Is there legislation restricting child labor to encourage children to attend school? (yes/no)

### **Private Schooling**

- Is there legislation expressly recognizing the liberty of individuals and groups to establish and direct educational institutions, subject to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the state? (yes/no)

- Is there legislation expressly recognizing the right of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to the minimum educational standards as may be laid down or approved by the state? (yes/no)

- Is there legislation expressly recognizing the right of parents and, when applicable, legal guardians to ensure the religious and moral education of children on conformity with their own convictions? (yes/no)

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**Treaty Ratification**

- Has the state ratified the following international treaties:
  1. **The UNESCO Convention against Discrimination in Education of 1960 (CADE)?**
  2. International Covenant of Economic, Social, and Cultural Rights (ICESCR)? (yes/no)
  3. Convention on the Rights of the Child (CRC)? (yes/no)
  4. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)? (yes/no)
  5. **International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)?** (yes/no)
- Has the state ratified any regional human Rights instruments recognizing the right to education? (yes/no)

**National Strategy and Plan of Action**

- Does the state have a policy to protect girls' access to education by ensuring that third parties, including parents and employers, do not prevent girls from going to school? (yes/no)
- **Does the state have a policy to ensure gender parity in education? (yes/no)**
- Does the state have a national educational strategy and plan of action? (yes/no)
  - a. Does the national educational strategy include a timeline for achieving the goals? (yes/no)
  - b. Does the national educational strategy have a monitoring mechanism for assessing the attainment of the goals? (yes/no)
- If yes, does the national educational strategy and plan of action expressly include the goals of:
  1. Universal, compulsory, and free primary education? (yes/no/not relevant because already achieved the goal)
  2. Progressive introduction of free secondary education? (yes/no/not relevant because already achieved the goal)

**Gender Issues**

- Have public policy measures been taken to:
  - a. Remove gender bias from primary education primers? (yes/no)
  - b. Remove gender bias from teachers' educational strategies? (yes/no)
  - c. Remove gender bias in terms of male and female roles in school? (yes/no)
  - d. Remove gender bias of gender-targeted optional subject? (yes/no)
  - e. Train teachers in gender issues? (yes/no)
- Are there opportunities for pregnant girls to continue their education? (yes/no)

**Curriculum**

- Does the state establish minimal standards regulating the curriculum and the quality of study programs and educational methods? (yes/no)
  - a. If so, are these national standards for the entire country? (yes/no)
  - b. Or are the standards set by provincial, regional, state and/or municipal governments? (yes/no)

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- Is there an inspection system to monitor and evaluate the quality and content of education?  
(yes/no)
- Does the official curriculum include human rights education and/or values, such as respect for human dignity, non-discrimination and equal status before the law:
  - a. In primary school? (yes/no)
  - b. In secondary school? (yes/no)
- Does the official curriculum include units on the constitution and democracy? (yes/no):
  - a. In primary school? (yes/no)
  - b. In secondary school? (yes/no)
- Is there legislation mandating respect in the educational system for the culture and religious practices of various groups and communities in the society? (yes/no)

**Human Rights Institutions**

- Does the state have human rights institutions (commission, ombudsperson, or representative) mandated to monitor the right to education? (yes/no)
- If yes, does the human rights institution collect data and issue regular reports on the status of the achievement of the right to education? (yes/irregularly/no)
- **Does the state have judicial mechanisms that adjudicate human rights violations? (yes/no)**

**Participation**

- Does the state have a mechanism to consult representatives of teachers and parents in the formation of educational policy, other than normal political institutions, at the:
  - a. National level? (yes/no)
  - b. Provincial, state, or regional level? (yes/no)
  - c. Local level? (yes/no)

**PROCEESS INDICATORS**

**Basic financial context**

Percentage of GDP devoted to education

- a. Total all sources
- b. Public sources
- c. Private sources

Percentage of budget allocated overall to education by

- a. National government
- b. Regional, state, or provincial governments
  - Regional government by name
- c. Local governments

Percentage of national budget allocated to

- a. **The Ministry of Education, or the Education Sector**
- b. Primary education
- c. Secondary education



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- d. Vocational training
- e. Higher education
- f. Teacher training
- g. Special disbursement to improve the gender balance
- h. Special disbursement to improve the education-based condition of minority groups**
- i. Targeted aid to poor **and/or isolated** localities and areas of the country

Percentage of total spending by regional, state or provincial governments allocated to

- a. Local education authorities**
- b. Primary education
- c. Secondary education
- d. Vocational training
- e. Higher education
- f. Teacher training
- g. Special disbursement to improve the gender balance
- h. Special disbursement to improve the education-based condition of minority groups**
- i. Targeted aid to poor **and/or isolated** localities and areas of the country

Percentage of each region, state or provincial government – listed by name – allocated to

- a. Primary education
- b. Secondary education
- c. Vocational training
- d. Higher education
- e. Teacher training
- f. Special disbursement to improve the gender balance
- g. Special disbursement to improve the education-based condition of minority groups**
- h. Targeted aid to poor **and/or isolated** localities and areas of the country

Percentage of total spending by local governments allocated to

- a. Primary education
- b. Secondary education
- c. Vocational training
- d. Higher education
- e. Teacher training
- f. Special disbursement to improve the gender balance
- g. Special disbursement to improve the education-based condition of minority groups**
- h. Targeted aid to poor **and/or isolated** localities and areas of the country

Amount of educational funding received from foreign bilateral and multilateral funding sources:

- a. Total amount for most recent year \_\_\_\_\_
- b. Percentage of total public educational budget \_\_\_\_\_

Was there overspending by more than 10 percent of the amount allocated for education in the last fiscal year by the

- a. National government? (yes/no)
- b. Provincial, regional or state government? (yes/some/no)
  - If some or yes, by how much cumulatively? \_\_\_\_\_
  - If some or yes, list the provinces, regional or state government in ascending order of overspending:

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Was there under-spending by more than 10 percent of the amount allocated for education in the last fiscal year for which data are available by the

- a. National government? (yes/no)
  - b. Provincial, regional or state government? (yes/some/no)
    - If some or yes, by how much cumulatively? \_\_\_\_\_
    - If some or yes, list the provinces, regional or state government in ascending order of overspending:
- 

**Charges payable in public education**

Specify whether or not there are charges for each of the following components in public primary education

- a. Enrolment fees (yes/no)
  - b. Tuition fees (yes/no)
  - c. Uniforms (yes/no)
  - d. School supplies and educational materials (yes/no)
  - e. School meals (yes/no)
  - f. School transport (yes/no)
- Total average cost per year per family for a student in a public primary school \_\_\_\_\_
- Is there a special funding system to ensure access to primary education for students from the following population groups?
- a. Low income groups
  - b. Female students
  - c. Persons with disabilities
  - d. Displaced persons
  - e. Groups living in dispersed rural **and/or isolated** areas
  - f. Immigrants**
  - g. Language minorities**

Specify whether or not there are charges for each of the following components in public secondary education:

- a. Enrolment fees (yes/no)
- b. Tuition fees (yes/no)
- c. Uniforms (yes/no)
- d. School supplies and educational materials (yes/no)
- e. School meals (yes/no)
- f. School transport (yes/no)

Total average cost per year per family for a student in a public secondary school \_\_\_\_\_

Is there a special funding system to ensure access to secondary education for students from the following population groups?

- a. Low income groups
- b. Female students
- c. Persons with disabilities
- d. Displaced persons

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- e. Groups living in dispersed rural **and/or isolated** areas
- f. **Immigrants**
- g. **Language minorities**

<b>Primary schools (infrastructure)</b>	<b>Total</b>	<b>Rural</b>	<b>Urban</b>	<b>Private</b>	<b>Public</b>
<b>Total number of schools</b>					
Number of schools with buildings in a state of disrepair					
Number of schools that have a shortage of classrooms					
Number of schools with inadequate text books					
Number of schools with no water within walking distance					
Number of schools with lack of access to sanitary facilities					
Number of schools with no electricity					
Number of schools with no telephones					
Number of schools with inadequate toilet facilities					
Number of schools with lack of access to library facilities					
<b><u>Number of schools with lack of access to recreational and sporting facilities</u></b>					

<b>Secondary schools (infrastructure)</b>	<b>Total</b>	<b>Rural</b>	<b>Urban</b>	<b>Private</b>	<b>Public</b>
<b>Total number of schools</b>					
Number of schools with buildings in a state of disrepair					
<b><u>Number of schools that have a shortage of classrooms</u></b>					
Number of schools with inadequate text books					
Number of schools with no water within walking distance					
<b><u>Number of schools with lack of access to sanitary facilities</u></b>					
Number of schools with no electricity					
Number of schools with no telephones					
Number of schools with inadequate toilet facilities					
Number of schools with lack of access to library facilities					
Number of schools with lack of access					

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to computers					
Number of schools with lack of access to recreational and sporting facilities					

**Physical accessibility**

Percentage of children having to travel more than 1 kilometer to reach primary school

- a. Nationally
- b. In rural areas
- c. In urban areas

**Percentage of children having to travel more than 1 kilometer to reach secondary school**

- a. **Nationally**
- b. **In rural areas**
- c. **In urban areas**

**Monitoring**

Does the national government collect data adequate to evaluate performance under the strategy/national action plan, particularly in relation to vulnerable groups? (yes/no)

- a. Through educational statistics collected through school reporting? (yes/no)
- b. Through national household surveys? (yes/no)
- c. Through national census surveys? (yes/no)

Are data collected at the primary level that disaggregate on the basis of students'

- d. Age? (yes/no)
- e. Sex? (yes/no)
- a. Urban/rural location? (yes/no)
- b. Income of family? (yes/no)
- c. Linguistic or ethnic group? (yes/no)
- d. Disabilities? (yes/no)

Are data collected at the secondary level that disaggregate on the basis of students'

- a. Age? (yes/no)
- b. Sex? (yes/no)
- c. Urban/rural location? (yes/no)
- d. Income of family? (yes/no)
- e. Linguistic or ethnic group? (yes/no)
- f. Disabilities? (yes/no)

Are data collected at the higher education level that disaggregate on the basis of students'

- f. Age? (yes/no)
- g. Sex? (yes/no)
- e. Urban/rural location? (yes/no)
- f. Income of family? (yes/no)
- g. Linguistic or ethnic group? (yes/no)
- h. Disabilities? (yes/no)

Are reports issued annually analyzing these data that cover trends at the

- a. National level (yes/no/sometimes)

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- b. State/regional or provincial levels? (yes/no/some)

Are disaggregated data publicly available related to

- a. Primary education? (yes/no/some)  
b. Secondary education? (yes/no/some)  
c. Higher education? (yes/no/some)

**Reporting**

Number of reports the state has submitted to the UN treaty-based bodies monitoring the following treaties that include the status of the right to education

- a. CADE  
b. CRC  
c. CEDAW  
d. ICERD

**Participation**

Did the state consult with a wide range of representatives of the following groups in the past year about issues relating to formulating, implementing and/or monitoring national educational policy:

- a. Non-governmental organization? (yes/no/some)  
**b. Regional organizations? (yes/no/some)**  
c. Educational professional organizations? (yes/no/some)  
d. Local governments? (yes/no/some)  
e. Community leaders? (yes/no/some)  
f. Representatives of vulnerable groups? (yes/no/some)  
g. Private sector? (yes/no/some)  
**h. Civil society? (yes/no/some)**  
**i. Student organizations? (yes/no/some)**

In the past year, did the state disseminate information on its educational policies and relevant educational data to:

- a. Non-governmental organizations? (yes/no/some)  
**b. Regional organizations? (yes/no/some)**  
c. Educational professional organizations? (yes/no/some)  
d. Local governments? (yes/no/some)  
e. Community leaders? (yes/no/some)  
f. Representatives of vulnerable groups? (yes/no/some)  
g. Private sector? (yes/no/some)  
**h. Civil society? (yes/no/some)**  
**i. Student organizations? (yes/no/some)**

**Teacher availability and qualifications**

Number of years of education for primary school teachers to meet certification requirements for:

- a. Lower primary school teaching \_\_\_\_\_ years  
b. Upper primary school teaching \_\_\_\_\_ years  
c. Lower secondary school teaching \_\_\_\_\_ years  
d. Upper secondary school teaching \_\_\_\_\_ years

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**Percentage of teachers meeting the minimum certification requirements:**

- a. In lower primary school classes (grades 1-3)
  - In urban areas \_\_\_\_\_
  - In rural areas \_\_\_\_\_
- b. In upper primary school classes (grades 4 and above)
  - In urban areas \_\_\_\_\_
  - In rural areas \_\_\_\_\_
- c. In lower secondary school teaching (first three years)
  - In urban areas \_\_\_\_\_
  - In rural areas \_\_\_\_\_
- d. In upper secondary school teaching (fourth year and above)
  - In urban areas \_\_\_\_\_
  - In rural areas \_\_\_\_\_

**Teacher training:**

**Is teacher training sanctioned by legislation?**

- a. **Constitution? (yes/no)**
- b. **Laws? (yes/no)**

**Does legislation sanction teacher training as a:**

- a. **Right? (yes/no)**
- b. **Obligation? (yes/no)**

What is the learner/educator ratio?

- a. In lower primary school classes (grades 1-3)
  - In urban areas?
  - In rural areas?
  - In public schools?
  - In private schools?
- b. In upper primary school classes (fourth year and above)
  - In urban areas?
  - In rural areas?
  - In public schools?
  - In private schools?
- c. In lower secondary school teaching (first three years)
  - In urban areas?
  - In rural areas?
  - In public schools?
  - In private schools?
- d. In upper secondary school teaching (fourth year and above)
  - In urban areas?
  - In rural areas?
  - In public schools?
  - In private schools?

What is the percentage of public schools with a sufficient number of qualified teachers?

- a. In primary schools

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- In urban areas?
- In rural areas?
- In sex-segregated schools catering to girls?
- b. In secondary schools
  - In urban areas?
  - In rural areas?
  - In sex-segregated schools catering to girls?

**Complaint and court cases**

Number of administrative complaints that considered educational rights in the last five years regarding:

- a. Availability or accessibility of primary education
- b. Funding of primary education
- c. Availability or accessibility of secondary education
- d. Accessibility of higher education
- e. Discrimination issues
- f. Registration or closing of private schools
- g. Parents' rights to ensure the religious and moral education of their children in conformity with their own convictions

Number of court cases that considered educational rights on the last five years regarding:

- a. Availability or accessibility of primary education
- b. Funding of primary education
- c. Availability or accessibility of secondary education
- d. Accessibility of higher education
- e. Discrimination issues
- f. Registration or closing of private schools
- g. Parents' rights to ensure the religious and moral education of their children in conformity with their own convictions

Number of complaints filed in the five years regarding:

- a. Availability or accessibility of primary education
- b. Funding of primary education
- c. Availability or accessibility of secondary education
- d. Accessibility of higher education
- e. Discrimination issues
- f. Registration or closing of private schools
- g. Parents' rights to ensure the religious and moral education of their children in conformity with their own convictions

Number of court cases filed in the five years regarding:

- a. Availability or accessibility of primary education
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- e. Discrimination issues
- f. Registration or closing of private schools
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**School registrations**

Number of schools that the government has refused to register in the past year

- a. Primary schools
- b. Secondary schools
- c. Vocational schools
- d. Institutions of higher learning

**School closings**

Number of schools that the government has temporarily closed in the past year

- a. Primary schools
- b. Secondary schools
- c. Vocational schools
- d. Institutions of higher learning

Number of schools that the government has permanently closed in the past year

- a. Primary schools
- b. Secondary schools
- c. Vocational schools
- d. Institutions of higher learning

**OUTCOME INDICATORS**

**Literacy Rate**

Age	Total	Urban		Rural	
		Female	Male	Female	Male
12-18					
19 and over					

**School Attendance**

- Percentage of eligible children of primary school age attending school (net enrolment ratio)?  
(yes/no)

- a. total
- b. females
- c. males
- d. in urban areas
- e. in rural areas
- f. among low income groups
- g. with disabilities
- h. by provinces/states with full listing

- Percentage of total primary school population who are older than the official primary school age:

- a. total
- b. in urban areas
- c. in rural areas



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- d. by provinces/states with full listing
- Percentage of total students in primary school who are enrolled in private schools:
  - a. total
  - b. in urban areas
  - c. in rural areas
  - d. by provinces/states with full listing
- Percentage of eligible children of secondary school age who attend secondary school:
  - a. total
  - b. females
  - c. males
  - d. in urban areas
  - e. in rural areas
  - f. by provinces/states with full listing
- Percentage of total students in secondary school who are enrolled in private schools:
  - a. total
  - b. in urban areas
  - c. in rural areas
  - d. by provinces/states with full listing
- Percentage of total students in primary school attending single-sex institutions:
  - a. total
  - b. in urban areas
  - c. in rural areas
  - d. by provinces/states with full listing
- Percentage of total students in secondary school attending single-sex institutions:
  - a. total
  - b. females
  - c. males
  - d. in urban areas
  - e. in rural areas
  - f. by provinces/states with full listing

**Educational Attainment**

- Percentage of children entering primary school who complete the full number of years prescribed for the primary school cycle:
  - a. total
  - b. females
  - c. males
  - d. in urban areas
  - e. in rural areas
  - f. by provinces/states with full listing
- Percentage of primary school leavers who pass the primary school leaving exam if one is given:
  - a. total
  - b. females
  - c. males
  - d. in urban areas
  - e. in rural areas
  - f. by provinces/states with full listing

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- Percentage of number of primary school leavers who enter secondary school:
  - a. total
  - b. females
  - c. males
  - d. in urban areas
  - e. in rural areas
  - f. by provinces/states with full listing
  
- Percentage of secondary school students in their final year who pass the requisite examinations:
  - a. total
  - b. females
  - c. males
  - d. in urban areas
  - e. in rural areas
  - f. by provinces/states with full listing

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