



PERU by Luis Castillo with updates by Katelyn O'Hara

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Overview

In a serious attempt to go beyond the political and economic consequences of policies implemented by the Fujimori dictatorship, on July 22, 2002 President Toledo signed the “National Agreement.” With this policy, the government designed thirty- one different projects, among them projects “to provide universal access to health services and a quality education (Social Equity Forum).” One of these, known as the project for “Universal Access to Free and Quality Education and the Promotion of Culture and Sport,” has been implemented with the intention of creating the conditions necessary to offer Peruvian students a quality education at all levels. Three years after its implementation, a report designed to monitor this project produced less than encouraging results. The *National Agreement Education Policy Report* indicated that while an increasing number of children in Peru are obtaining an education, education quality in Peru remains rather poor. One of the reasons given for the findings was that educational budgets in Peru have not increased since the *National Agreement* was signed.

Despite this realization, very little continues to be done when it comes to effecting change in education policy in Peru. During his recent campaign, Peru's new president, Ollanta Humala, spoke little on the subject. This glaring lack of discussion points to the idea that there exists no real political intention in Peru to address serious problems in education. While it is likely that such issues will not be solved entirely by government, it is also true that an appropriate legal framework can be a necessary complement and a valuable ally to policies designed to confront one of the most prominent reasons for poverty and inequality in Peru: the gap of a suitable education of its population.

The structure of schooling

The Ministry of Education directs schooling for the entire country, but education is decentralized since authority is passed down to branches of the Ministry: the Regional Directorate of Education (DRE) and Local Education Management Unit (UGEL). There are two levels of education in the Peruvian system: basic education and higher education. The aim of basic education is to improve the comprehensive development of students and to encourage students to develop the knowledge, attitudes, and fundamental values they will need to fulfil their social roles of choice. A student's basic education can follow one of three paths: regular basic education, alternative basic education, or special basic education.

Regular basic education can also be broken down into three levels: pre-primary education, primary education, and secondary education. Pre-primary education serves children younger than age five. At this level, education can be either academic or a form of day care. Educative institutions at this level are both public and private; *cuna* (nurseries) serve children until three years of age and *jardines* (kindergartens) serve children aged three to five. Primary education begins when children are about six years old and lasts six years in total. Each year of primary education represents a different "grade" of schooling, and every two grades of primary education are known as "scholar cycles." At this level education is academic, which means that it can only be carried out in officially recognised institutions, whether they are public or private. Secondary education in Peru is offered to students who have completed their primary schooling; it takes another five academic years, or grades. The first two years of secondary education constitute one cycle, and the three last years constitute the final cycle in secondary schooling.

Alternative education has the same purpose and is comparable in quality to regular basic education. Defined in the General Education Law (2003), Article 37, alternative education is designed to serve young people and adults who have not had access to or could not finish regular basic education. It can also benefit students who do poorly in the regular system, students who dropped out of school for some reason, or students who need to combine study with work; thus alternative education can provide a more flexible schooling schedule for those students who work and address specific skill needs. Alternative education also incorporates literacy campaigns and uses all official languages in Peru, depending on the requirements of each region.

Special basic education is intended for pupils with special education needs and takes an inclusive approach intended to integrate pupils into their communities. According to Article 39 of the General Education Law, special education serves pupils with handicaps or disabilities that make difficult it for them to function within the regular system; it also serves “gifted” children and teenagers who have been identified as having special academic talents.

As a complement to basic education, the Ministry of Education also directs technical-productive education. Technical-Productive Education, which is offered in both public and private schools, is designed to provide the acquisition of job skills and increase the performance in jobs and business primarily for adolescents and young adults in rural and poor areas, who do not have access to higher education. (General Education Law, Articles 40-45)

Higher education in Peru is optional. It is comprised of two spheres: non-university higher education (which comprises pedagogic high education, technological high education and high education on arts) and university education. The Constitution guarantees that the state should cover the cost of higher education for students who wish to attend university but do not have the economic resources to do so, provided that those students maintain a satisfactory academic performance. (Article 17)

Intercultural and bilingual education

The Constitution guarantees Peruvians the right to preserve their own ethnic and cultural identity. (Constitution, Article 2) Article 17 of the Constitution states, “The government promotes...bilingual and intercultural education in accordance with the individual characteristics of each zone. It preserves the country’s various cultural and linguistic manifestations. It promotes national integration.” Spanish and native languages such as Quechua and Aimara are considered official languages, although Spanish is most often used in schools, the media, and by government officials. Besides Quechua and Aimara, some forty additional native languages are used in Peru, particularly in the Amazon region.

Implementing effective bilingual education remains a challenge for Peru. The government first issued national policy regarding bilingual education in 1972. During the 1980s and 1990s the government paired intercultural education with bilingual education, hence the phrasing “Education Intercultural and Bilingual.” Most of the intercultural and bilingual education efforts are aimed at only rural populations. More recently, the General Education Law guarantees the right for students to learn in their maternal tongue in addition to Spanish. (General Education Act, Article 20). Teachers are required to have mastered the native language in the region where they work as well as Spanish. Still, intercultural and bilingual education is only thought of in terms of rural, indigenous populations; thus such programs occur only in certain regions of the country.

Status of schooling & schooling statistics

The following statistics, from UNESCO's resources for the *Education for All Global Monitoring Report* (2010), serve to illustrate the status of schooling in Peru today. These data specifically focus on enrollment at the primary and secondary levels; they highlight inequities in schooling.

Peru has made strides in providing primary education for its population; it is near 100% for both males and females, and there is high primary school enrolment for both indigenous and Spanish speaking students. However, the same cannot be said of Peru's secondary education. Although enrolment in secondary education has risen over the past decade, Peru is not close to achieving universal access to secondary education. Moreover, the gap between the two language populations is wider. Thus although Peru is quite close to achieving universal primary education, it has not achieved universal secondary education, which can speak to the quality of schooling throughout the country.

The legal framework

The Constitution of Peru recognizes education as a fundamental right and that its purpose is the comprehensive development of the human being (Article 13). As such, education must be delivered in accordance with international norms and also in accordance with tribunal decisions affecting international norms (Fourth final and provisional disposition of the Peruvian Constitution). Thus, key documents that are considered with regard to the delivery of education in Peru are: the Universal Declaration of Human Rights, the International Covenant of Social, Economic and Cultural Rights (UN 1966), the Additional Protocol to the American Convention on Human Rights as regards economic, social, and cultural rights, and the San Salvador Protocol (OEA 1988).

According to key international regulations such as Section 26.2 of the Universal Declaration of Human Rights, Article 18.4 of the Covenant on Civil and Political Rights, and section 13.2 of the Optional Protocol to the Covenant on Civil and Political Rights, the comprehensive development of any student must rest upon two pillars: respect for the democratic principles of coexistence and respect for the rights and fundamental freedoms of human beings. These pillars are closely linked, making it difficult to speak of respect for the aforementioned political principles if respect for fundamental rights does not exist. In this context, considering the purpose of education is important because it becomes the main criterion for defining when a law or a specific government policy does or does not fit a constitutional mandate.

According to the Constitution, education should promote not only knowledge acquisition, but also knowledge and practice of the humanities, sciences, technical arts, and physical education. Education should also equip students with vocational and life skills and promote good citizenship. (Section 14) Since education is closely

linked with the comprehensive development of the human being and consequently, to the development of the society as a whole, the Peruvian State recognizes and guarantees academic freedom and promotes the scientific and technological advancement of the country through that freedom. (Sections 13 and 14) The Constitution also ensures that all citizens have the right to a suitable education regardless of economic circumstance or physical or mental handicap, and promotes the establishment of schools where people demand them. (Sections 16 and 17).

The following are the main laws pertaining to education:

- a) Act 24029 (14th December 1984): This law establishes the rights and duties of professors and teaching staff working in public schools. There is currently a great shortage of public school teachers in Peru. For this reason, the Department of Education has drafted a law to regulate the work of public school teaching staffs. It is hoped that this project will improve staff levels while also raising the overall quality of education in Peru.
- b) Act 26549 (1st December 1995): This law outlines rules and responsibilities for private schools at the primary level. Partially modified by the Act 27665 in February 2002.
- c) Act 28044 (28th July 2003), General Education Act. Established the major directives of the Ministry of Education and has the power to set state powers and duties. This Act governs all education-related activities, whether developed by individuals or by national or foreign, legal entities.
- d) Act 28332 (20th July 2004). This law, created by the General Education Act, establishes the organization and mechanisms for operation of the National Fund for Peruvian education development (FONDEP).
- e) Act 28628 (24th November 2005). This law regulates the family father's association's participation in the public educative institutions. Family fathers can create associations with the aim to participate in the educative process of their children and to contribute with the improvement of the services offered by the local learning institution. (This right to regarding private schools, is regulated by the Act 28044.)
- f) Act 23733 (17th December 1983) this law regulates the creation and maintenance of universities.

Freedom to establish non-state schools

Both state and private actors can create new schools in Peru. Constitutional regulations clearly establish this by recognizing the importance of academic freedom. (Constitution, Article 13) The Constitution further establishes the rights of individuals and private legal entities to create and manage educational institutions;

Article 15 states that such individuals or legal entities also have the right to manage the finances of the educational institutions. In accordance with this rule, the General Education Act also recognises that individuals and legal entities have the right to build and lead educative programs and institutions. This law thus encourages private actors to contribute to the growth, innovation, quality, and funding of education services. (General Education Act, Article 5).

Peru is organized into twenty-five regions. The educative authority at national level is the Ministry of Education, which serves as an umbrella to more local administrative branches. Schools in each region are governed by the Regional Directorate of Education (DRE). Each region is further divided into provinces, which each have the Local Educative Management Unit (UGEL). The creation of a new educative institution (except at the University level), public or private, requires approval by the UGEL, at which point the institution can be authorized by the DRE. The UGEL is responsible for supervising the activities and services offered by the new institution within its jurisdiction.

Legislative Decree 882 (1996) allows for the existence of private schools (including universities) organized as profit making organizations. According to this law, schools can be organized as private associations, foundations, cooperative entities, personal companies with limited civil liabilities, or as individual companies. Private institutions are controlled by the Ministry of Education (through the DRE and the UGEL), which authorizes their establishment and monitors their activities.

Unfortunately, in many cases, new private schools have prioritized profit-making. A consequence of this situation has been the creation of schools with inappropriate infrastructures, under-prepared teaching staffs, and the provision of an overall education that is less than sound.

Homeschooling

There is no provision for home schooling either in the Constitution or in Peruvian law. Indeed, in Peru there is no possibility that an education received outside of a school or other formal education program could result in any official degree or title.

School choice not limited by family income

Peruvian law guarantees that all citizens, regardless of economic, mental, or physical limitations have the opportunity to receive an appropriate education. (Constitution, Article 16). For this reason, basic education at public schools is free. Also, higher education at public universities in Peru is free to students without finances and who maintain a satisfactory academic performance.

In this context, the two organizing principles of the Peruvian education system are equity

and inclusion. Equity posits that all students should have equal educational opportunities and that there should be continuity in the way that students are treated. Inclusion allows for the incorporation of persons with disabilities into the system and dictates that disenfranchised social groups, especially in rural areas, should be treated equally and should not be discriminated against on the grounds of ethnicity, religion, gender, or any other related reason. These principles represent a declared effort to eradicate poverty, exclusion, and inequality. (General Education Act, Article 8)

Article 18 of the General Education Act outlines key steps, which should be taken by education leaders. Accordingly, the government should:

1. implement remedial policies to overcome inequalities among disadvantaged groups;
2. give priority to the assignment of financial resources to disenfranchised or disadvantaged students;
3. establish a mechanism for the appropriate registration and maintenance of all students in the education system with regard to enrolment;
4. implement education programs for people with learning disabilities or other special education requirements;
5. establish at all levels a scholarship funding system to ensure access and continued enrolment for students who perform well academically, and have not incomes enough to cover the cost of their education.

Private education can be subsidized through the Ministry of Education's National Fund for the Development of the Peruvian Education (FONDEP), regulated by Law N.28332 (November 2004). Public education institutions may receive benefits from this fund and privately managed schools are also eligible, especially those in economically depressed regions of the country. (General Education Act, Article 91) The educative institution, public or private, presents to FONDEP the projects to be funded. Projects can seek to address, for example, pedagogical innovations, investments to improve the educative conditions, teacher training, school supplies, and assistance for professors and students.

It is important to note that the state can establish agreements with civil society organizations, such as religious institutions, that allow those associations to manage schools or public education programs. The purpose of this relationship is to enable these institutions to provide to the economically under-privileged with state funding (and regulation) for the hiring of new teaching staff or the purchase of necessary resources, for example (General Education Act, Article 92).

Finally, there is specific help for schools—although indirect—that arises from tax- exempt status. Universities, high schools, and other public and private schools are not encumbered by any direct taxes on services or activities related to their educational and cultural purposes. Donations and scholarships with educative aims are also tax exempt,

the only exception to this rule being that if private schools are organized as corporations they must create incomes that are legally described as “utilities;” these are bound by the income tax.

School distinctiveness

In Peru, all schools follow a curriculum that contains core components formulated by the Ministry of Education. Despite the common core, it is possible to find diverse curricula throughout the country’s different regions. While the Constitution requires that the state designs and implements education policies and outlines a common core curriculum in key subjects, it also ensures that education in Peru is largely decentralized, which means that regional and local instances can take liberties with augmenting the state mandated core curriculum. (Article 16) Indeed, it is possible to distinguish four diverse instances for curricular development.

The Ministry of Education is, of course, a curricular instance of national scope. Recently, the Ministry of Education established the National Council of Education, which created the National Educative Project, (“National Educative Project to the 2021: the Education we want for the Peru”), which aims to greatly improve all levels and sectors of Peruvian schooling, from teacher preparation to improving equality and inclusion in schools.

The Ministry’s curricular design responsibilities include writing curricula for all levels of schooling and for all educative modes. The National Curricular Design of Regular Basic Education requires courses in core subjects, sets the minimum number of hours devoted to each basic subject, the learning goals and the general orientation for the assessment of basic education at any region in the country.

The Regional Directorate of Education (DRE) also has some administrative and curricular authority. The DRE is responsible for providing education services to twenty-five different geographic regions. Through the Participative Regional Council for Education, the DRE specifies and completes the National Plan of Education according with the exigencies of their specific regional circumstances.

The third administrative level with regard to education in Peru, is the Local Educative Management Unit (UGEL). UGEL implements the Local Educative Project, which stems from the DRE’s directive. The DRE and UGEL are responsible for implementing the national curriculum, yet still have the freedom to develop methodologies, assessment systems, forms of management, school organization and different timetables according with the environment and the local population.

The final, but arguably most important, administrative and curricular instance in Peruvian education is of course the school. Schools (both primary and secondary) are considered the main instance with regard to administration and curriculum, as schools are where the teaching and formal learning processes ultimately take place. Schools design, approve, implement, and evaluate their own Institutional Educative Projects (PEI). The PEI is the adaptation of the Local Educative Project meant to specifically

address that institution's needs and goals. Individual schools design and implement their own Annual Working Plans, which contain organized programs and activities to be developed during the year. Schools also design and implement their own regulatory plans, which regulate the relationship between each school and its teaching staff and between the school and families.

The General Education Act calls for monitoring of education in each level of the government bureaucracy - from the Ministry of Education to the Local Educative Management Unit. Article 21 outlines the function of the state, which requires the Ministry of Education to supervise and evaluate the quality and equity of education throughout the country. The National Council of Education is responsible for assessing the progress of the National Educative Project, while at regional level the Participate Regional Council of Education, and monitors the performance of the Regional Educative Project. Finally, the Local Participative Council of Education supervises the execution of the corresponding Local Educative Project. If a learning institution fails to comply with obligations and does not change to meet quality standards, the Ministry of Education can close the institution.

The degree to which the local, regional, and national units communicate and collaborate varies between the different regions of Peru. Often there is a lack of effective communication; the Ministry of Education declares a national initiative to reform and support schools, but the regional and local units can have serious challenges when it comes to implementing national initiatives. Also, there remains little information on the process and actual mechanisms at each level that conduct monitoring and evaluation of schools throughout the country. Those schools, which are physically difficult to reach, in rural areas, are usually poorer and cannot get the resources they desperately need.

Private education

As mentioned, freedom as a principle is fully recognised and applied within the Peruvian educative system. A result of this principle is the aforementioned right of the individuals and legal entities to create educative institutions. The state provides financial support in the establishment of private schools, which can also benefit from private investments.

Religiously affiliated schools also receive further benefits from the state. For instance, the Ministry covers the payment of salaries of the professors and provides any other complementary help, mainly school furniture. Education is free in these schools, most of which attend to the learning needs of the poorest populations in Peru. Thus, religious private schools provide an important public service by ensuring that education is available to a wider range of citizens and by improving the overall quality of education in Peru.

By giving citizens the power to establish educational institutions, the Peruvian government is not only allowing individuals to manage schools and implement curricula, it is also allowing them to infuse the schools with distinct ideological

characters. Considering that the Constitution also grants parents the right to choose the schools that their children will attend (Article 13), the Peruvian system is home to a plurality of schools; families have many pedagogical and curricular options from which to choose.

Indeed, if one considers that the purpose of education, as posited above, is to ensure the full development of human beings, it becomes difficult to envision a system of education that purposefully excludes any ideology or form of axiological instruction. The teaching of ethics is a fundamental component of education. In brief, the right to direct the upbringing of one's child, by determining the kind of education that he or she will receive, implies a right to choose from among a diversity of schools, even schools with specific ideological or religious leanings. This supposition clearly accounts for the spiritual element present in education. This element in no way changes or reduces the overall quality of education, especially with regard to scientific education. Rather, it is its necessary complement.

Of course, in the interest of balancing the general principles of the Peruvian state with the principle of educational freedom, the Private Educative Institutions Act stipulates that individual school owners or managers must establish and maintain institutions that exist with respect to the guidelines and values espoused in the Constitution. (Article 3) Similarly, the Promotion for the Investment in Education Act (Ley N.882) has recognized that every individual or legal entity that owns a particular educative institution should establish and manage that organization, including its institutional guidelines, in accordance with Constitutional values and principles. Institutions should also decide upon a specific pedagogical system with which to deliver curricula and decide upon a curriculum and system of evaluation that considers the moral, cultural, ethical and civic dimensions of education. (Article 5)

Decisions about admitting pupils

Student admission and grade placement into public and private schools is largely determined by age. Thus only children five years of age or younger can enroll in pre-primary education. Children older than five who have completed the pre-primary level can enroll in primary schooling, and children who have passed the sixth grade, regardless of age, can enroll in secondary school. Initial, primary and secondary education is compulsory.

With regard to enrolment, the only remaining factor is that of the distinction between public and private education. Families wishing to enroll students in private schools must consider the cost of tuition. Although a basic right to education is recognized in Peru, the right to be educated in a specific educative institution is not yet recognized. Parents wishing to enroll children in a private institution must have the ability to defray the cost of that education on their own unless they qualify for a scholarship or grant offered by the state or the school.

The cost of private education can differ depending on the centre and the educative service they offer. In 2006, considering all levels and varieties of education, except the university, 1,841,071 students were enrolled in private schools, and 6,690,997 students in public schools.

Given the cost of private education, the state requires that schools and educational programs provide a requisite amount of truthful, written information to concerned parties about the amount of tuition, number of required payments, and any possible increases. Tuition is charged monthly during the academic year, and registration fees may not be larger than monthly tuition (Act 27665, Article 1).

Decisions about staff

Teachers in both public and private institutions are valued as essential to the educational process. Teachers assist in every aspect of student development, which is why it is the teacher's job—among other things—to develop and implement appropriate learning activities and evaluate students to assure that they are achieving to an acceptable level. Teachers are expected not only to develop the institutions in which they work, but also to assist in the development of regional and national education plans (General Education Act, Article 56). All teachers, at any level of basic education, public or private, are required to have a university degree in pedagogy. The state does, however, make allowances for professionals who are considered experts in their fields to teach in schools (General Education Act, Article 58). Teachers must have a good command on the original language of the region where they work, as well as the Spanish.

The Constitution requires that persons who teach in public schools take a “public degree course” in teacher training. This requirement is an attempt to ensure that all teachers are adequately prepared to be in the classroom. Entrance into a position as a public school teacher is contingent upon a selection process made by the Education Department in cooperation with the DRE, which is notified of empty positions by the UGEL.

Teachers eligible for promotion are evaluated on merit and experience (Constitution, Article 15). Teacher evaluation is decentralized and is carried out with the participation of the local education community, which is made up of The Committee of Teaching Assessment and local union.

Persons wishing to teach in private schools do not have to meet the same qualifications as public school teachers. Of course, teachers working in private institutions may qualify to work in a public school if they fulfil the necessary state requirements. Still, the owner/leader of a private school has full freedom to hire and fire his or her teaching staff.

Accountability for school quality

Improving the quality of education is one of the most pressing issues that Peru faces today. As mentioned, access to both primary and secondary education in Peru has increased dramatically. Yet, despite these gains, the quality of education in Peru remains low.

Although much of the problem with quality in Peruvian education can be linked to a lack of educational funding, it would be a mistake to oversimplify the issue by claiming that money is the only factor that would improve education in Peru. Indeed, the issue of educational quality is also directly related to student background and teacher preparation and training. The government could create many new schools and greatly improve the general infrastructure of schooling, but without better teacher training and a means to address what goes on outside of schools; education on the whole will not improve. In this sense, it is important to consider two ideas: investment in public education and the creation of a system to evaluate the quality of education.

Per pupil spending in Peru is one of the lowest in Latin America. In an effort to increase investment in education, the General Education Act has established the state's obligation to assign at least 6% of Peru's Gross Domestic Product (GDP) to public education (Ch.6, Article 83). The Act also provides that necessary budgetary increases will be made progressively. In this vein, the Peruvian government, under the recent National Agreement, has committed to ensure resources for "education reform granting a minimum annual increase in the budget of the education sector equivalent to 0.25% of the GDP, until point that the budget reaches 6% of the GDP" (*Twelfth state policy: universal access to free and quality education, and promotion of culture and sport*). This compromise was repeated in the "Social Agreement of Mutual Commitments to Education 2004-2005" adopted by the National Agreement members. Nevertheless, such increments have not been reflected in the national budget in the years since the agreement was signed in 2003. There has not, however, been a significant increase in expenditure, signaling a failure by the government to effectively work toward its goal of expenditures reaching 6% of the GDP.

Teaching of values

If the stated purpose of Peruvian education is to contribute to the comprehensive development of the human being (Constitution, Article 13), then it is necessary that education impart not only scientific and technical knowledge, but also information about values and principles. This becomes especially important if we consider that education should prepare the student for life and while instilling in him or her, an ethic of citizenship (Constitution, Article 14). Just as the Constitution mentions that education should contribute to the civic and ethical formation of citizen, it also mandates that knowledge

of basic human rights be compulsory and that all citizens have the right to a religious education (Constitution, Article 14).

Closely connected to the teaching on values is the teaching of respect for a multicultural society. A desire to promote tolerance within Peru's multicultural society is one reason for a Constitutional requirement for bilingual and intercultural education. This requirement encourages respect to the special characteristics of each geographic region in Peru and attempts to preserve the different cultural and linguistic enclaves of the country while at the same time promoting national unity (Constitution, Article 17).

Considering this effort, the General Education Act requires that ethics and civics education be an integral part of the education process at all levels. It is intended not only to prepare students to carry out their personal, familial, and patriotic obligations, but also to aid them in exercising their rights and duties as citizens. Thus, students are compelled to learn the Constitution and about basic human rights in all Peruvian educational institutions. Lessons on these topics take place in Spanish and also in the other official languages of the country (General Education Act, Article 6).

The Peruvian system of education should be sustained on ethical principles, such as peace, solidarity, justice, honesty, tolerance, responsibility, work, and truth. Many feel that the teaching of these principles makes it possible to convey the importance of rules that reinforce the individual moral conscience as they coexist with rules that are based upon the ideas of citizenship and civic responsibility (General Education Act, Article 8). Further, an intercultural ideal, which assumes diverse cultural, ethnic, and linguistic diversity as the wealth of the country is very alive in Peruvian education. Still, Peru struggles with implementing and evaluating the effectiveness of ethic and civic emphasis in its schools. Gaps between indigenous speaking students and Spanish speaking students and those living in poverty are a reality which must be forcefully dealt with if success is to be seen in achieving the Ministry of Education's goals for Peruvian education.

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