

Dirección de Prestaciones Médicas, Instituto Mexicano del Seguro Social, Mexico City, Mexico (SEZ); and Coordinación de Vigilancia Epidemiológica y Apoyo en Contingencias, Unidad de Salud Pública, Dirección de Prestaciones Médicas, Instituto Mexicano del Seguro Social, DF 3100 Mexico City, Mexico (JIMMA, CGM, CGB, VHBA)

- 1 Gargiullo P, Shay D, Katz J, et al. Effectiveness of 2008–09 trivalent influenza vaccine against 2009 pandemic influenza A (H1N1)—United States, May–June 2009. *MMWR Morb Mortal Wkly Rep* 2009; **58**: 1241–45.
- 2 De Groot AS, Ardito M, McClaine EM, Moise L, Martin WD. Immunoinformatic comparison of T-cell epitopes contained in novel swine-origin influenza A (H1N1) virus with epitopes in 2008–2009 conventional influenza vaccine. *Vaccine* 2009; **27**: 5740–47.
- 3 Greenbaum JA, Kotturia MF, Kima Y, et al. Pre-existing immunity against swine-origin H1N1 influenza viruses in the general human population. *Proc Natl Acad Sci USA* 2009; **106**: 20365–370.
- 4 Miller E, Hoschler K, Hardelid P, Stanford E, Andrews N, Zambon M. Incidence of 2009 pandemic influenza A H1N1 infection in England: a cross-sectional serological study. *Lancet* 2010; published online Jan 21. DOI: 10.1016/S0140-6736(09)62126-7.
- 5 García-García L, Valdespino-Gómez JL, Lazcano-Ponce E, et al. Partial protection of seasonal trivalent inactivated vaccine against novel pandemic influenza A/H1N1 2009: case-control study in Mexico City. *BMJ* 2009; **339**: 33928.

Colombia's health reform: false debates, real imperatives

In Thomas Tsai's World Report (Jan 9, p 109),¹ Leonardo Cubillos posits a conflict between a "data-driven process" of health policy making and a right to health enforced by Colombian courts on the basis of individual cases. Although court orders have certainly resulted in the payment of substantial costs, most merely enforced benefits that health maintenance organisations should have been providing under the obligatory insurance plan (*Plan Obligatorio de Salud* [POS]).

Another substantial part of the Constitutional Court's jurisprudence has clarified grey zones in the ill-defined POS. Furthermore, actors on all sides of the political arena in Colombia concur that the POS was not based on either sound epidemiological evidence or a thorough actuarial analysis; nor did it

set out prioritisation of treatments on the basis of cost-effectiveness criteria.

There is no doubt that Colombia's health system now faces a profound crisis. Pursuant to its declaration of a state of emergency in December, 2009, the government has adopted some important stop-gap measures, including injecting more resources into the system. However, the structural reforms called for by the Constitutional Court in judgment T-760/08 still need to be implemented.

T-760/08 called for universal coverage and the unification of the unequal benefits schemes under the POS, both of which had been envisioned in Law 100. Far from ordering equalisation upward, T-760/08 urged a comprehensive, evidence-based, and participatory process to review the contents of the POS. It is imperative for the stability of the system that the government adopt such a process, including ensuring meaningful participation of a broad range of civil society actors.

I declare that I have no conflicts of interest.

Alicia Ely Yamin
ayamin@law.harvard.edu

Harvard University Law School, Cambridge, MA 02138, USA

- 1 Tsai TC. Second chance for health reform in Colombia. *Lancet* 2010; **375**: 109–10.

Thomas Tsai's World Report¹ illustrates some fundamental contradictions in Colombia's health-care system.

First, the discrepancy between health *insurance* coverage and health *care* coverage. While the government claims an impressive extension of health insurance coverage, hundreds of thousands of law suits—known as *tutelas*—are brought to the Constitutional Court by citizens in search of necessary health interventions denied by their private insurers. These denials impose suffering, medical complications, disability, and death to the insurance company's affiliates.²

Second, although the high cost of these interventions is invoked as the

reason for denial, the artificial inflation of administrative and intermediation costs, absorbing 25–30% of the health system's resources, permits health insurance companies to expand exponentially.³ Today, some of them are classified as among the most important businesses in the country.

Third, because the T-760 ruling of the Constitutional Court obliged the government to guarantee the right to health care for all Colombians, the private insurers' shortcomings in their health-care obligations are now paid for by the governmental Solidarity and Guarantee Fund (Fosyga). This situation has led to sharp increases in public expenditure. A recent government decree declared a "social emergency" because of this health financing crisis.⁴ Instead of putting limits on the lucrative health insurance business, new taxes will now be raised and co-payments for the poorest will be increased to pay off the US\$450 million that Fosyga owes to the private insurance companies.⁵

While more public money is channelled to the private sector, structural flaws remain untouched.

We declare that we have no conflicts of interest.

E Londoño, R Dario-Gómez, *P de Vos
pdevos@itg.be

Colombian Network for Health Policy and Systems Research, Medellín, Colombia (EL); National Public Health Faculty, University of Antioquia, Medellín, Colombia (RDG); and Public Health Department, Institute of Tropical Medicine, 2000 Antwerp, Belgium (PdV)

- 1 Tsai TC. Second chance for health reform in Colombia. *Lancet* 2010; **375**: 109–10.
- 2 Abadía CE, Oviedo DG. Bureaucratic itineraries in Colombia: a theoretical and methodological tool to assess managed-care health care systems. *Soc Sci Med* 2009; **68**: 1153–60.
- 3 Baron-Leguizamon G. Gasto Nacional en Salud de Colombia, 1993-2003: composición y tendencias. *Rev Salud Publica* 2007; **9**: 167–79.
- 4 Ministerio de la Protección Social. Decree 4975. <http://www.minproteccionsocial.gov.co/VBeContent/library/documents/DocNewsNo19174DocumentNo11427.PDF> (accessed Jan 17, 2010).
- 5 Cardona A. ¿Para qué una emergencia social? *Revista Semana* Dec 23, 2009. <http://www.semana.com/noticias-salud--seguridad-social/para-emergencia-social/133048.aspx> (accessed Jan 17, 2010).