

Universal Periodic Review (41st session)

Contribution of UNESCO

Ecuador

I. Background and framework

<i>Title</i>	<i>Date of ratification, accession, acceptance, or succession</i>	<i>Declarations /Reservations</i>	<i>Recognition of specific competences of treaty bodies</i>	<i>Reference to the rights within UNESCO's fields of competence</i>
Convention against Discrimination in Education 1960	Ratified on 05/03/1979	Reservation to this Convention shall not be permitted		Right to education
Convention concerning the Protection of the World Cultural and Natural Heritage (1972)	Ratification on 16 June 1975 Committee Member (1976-1980 and 1995-2001)			Right to take part in cultural life
Convention for the Safeguarding of the Intangible Cultural Heritage (2003)	Ratification on 13 February 2008			Right to take part in cultural life
Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)	Accession on 8 November 2006 Committee Member (2019-2023)			Right to take part in cultural life

II. Promotion and protection of human rights on the ground

A. Education

1. The Constitution of Ecuador of 2008¹ provides in its article 26 that “Education is a right of persons throughout their lives and an unavoidable and mandatory duty of the State.” Article 28 further adds that “Education shall be for general welfare of the public and shall not be at the service of individual and corporate interests. Universal access, permanence, mobility and graduation without any discrimination shall be guaranteed, as well as compulsory attendance of initial schooling, basic education and secondary education or their equivalent (...). Public education shall be universal and secular at all levels and shall be free of charge up to and including the third level of higher education [post-secondary undergraduate schooling].”
2. The Organic law for intercultural education of 2011² provides that “education is a fundamental human right and it is an unavoidable and inexcusable duty of the state to guarantee access, permanence and quality of education for the entire population without any discrimination” (article 2(a)). According to articles 42 and 43, basic general education and unified secondary education, of a total of thirteen years, are compulsory and free.

B. Freedom of opinion and expression

Constitutional and Legislative Framework:

3. The Constitution³ specifically mentions and protects the right to free expression and communication in the following articles: 16 – the right to free, intercultural, inclusive, diverse and participatory communication; 17 – “the State will promote plural and diverse communication”; 18 – “right of all people, individually or collectively, to seek, receive, exchange, produce and disseminate truthful, verified, timely information (...) without prior censorship (...) and with subsequent responsibility (...)” as well as to “freely access the information generated in public entities (...) no reservation of information except in the cases expressly established by law.” “In case of violation of human rights, no public entity will deny the information”; 39 – the right to freedom of expression for young people; 46: the right to freedom of

¹ <http://www.unesco.org/education/edurights/media/docs/ae88d9bd87dabab63f655c0f5f3f138314e56a9.pdf>

² <http://www.unesco.org/education/edurights/media/docs/7ecc0174a1ff760e9ddd6397876e8d03e3fc1a43.pdf>

³ https://www.oas.org/juridico/pdfs/mesicic4_eu_const.pdf

expression for children; 384- “the social communication system will ensure the exercise of the rights of communication, information and freedom of expression (...)”.

4. The Transparency, Citizen Participation and Social Control Commission of the National Assembly oversees the reform process and legislative discussion of the Access to Information Law. On 10 October 2021, the Commission approved the unification of the five law proposals. Civil society has actively participated in the drafting and in the dialogue process on the law.⁴
5. In the reform of the Comprehensive Organic Criminal Code (February 2021), defamation remains a punishable crime under article 182, with imprisonment from six months to two years.⁵ In July 2021, the National Assembly approved the Digital Violence Law⁶, which includes in article 18 an extension of article 396 of the Comprehensive Organic Penal Code (COIP) and establishes that crimes against honor are punishable by imprisonment of 15 to 30 days.
6. The Transparency and Access to Information Law was adopted in 2004.

Implementation of the law:

7. In 2019, the Organic Law of Communication (LOC) of 2013 was amended. The new law abolishes SUPERCOM, the regulatory body responsible for monitoring media content and ensuring compliance with the LOC. According to the UN Special Rapporteur on freedom of opinion and expression in the Preliminary Observations resulting from his visit to Ecuador in October 2018, SUPERCOM “punished media outlets and individual journalists (...)”.⁷
8. On 25 May 2021, President Lasso proposed the Organic Law of Freedom of Expression and Communication to the National Assembly, as a new framework to replace the LOC. The law was approved in unification with the Assembly’s proposed Organic Law for the Guarantee, Promotion and Protection of Freedom of the Press and Communication on 23 August 2021. The bill addresses issues such as State obligations and journalistic self-regulation. It also touches on the issue of the protection of journalists, as well as civil penalties for defamation.

⁴ <https://www.fundamedios.org.ec/asamblea-aprobo-tratar-proyecto-de-ley-de-acceso-a-la-informacion-presentado-por-fundamedios/>

⁵ https://www.defensa.gob.ec/wp-content/uploads/downloads/2021/03/COIP_act_feb-2021.pdf

⁶ https://www.fundamedios.org.ec/wp-content/uploads/2021/05/06-05-2021_texto_final_votacio%CC%81n_segundo_debate_-_violencia_sexual_digital_2.pdf

⁷ <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23713&LangID=E>

9. A new reform under review raises compliance questions in terms of human rights standards, such as the elimination of the obligation for the media to have an ombudsman for the public (previously article 73 of the LOC).

Safety of journalists:

10. UNESCO has recorded the killings of four journalists in Ecuador since 2006,⁸ as well as the killing of three Ecuadorian journalists in Colombia ("El Comercio" case) [as at 17 February 2022], who had precautionary measures granted by the Inter-American Commission on Human Rights.⁹ Ecuador has consistently responded to UNESCO Director-General's annual request for information on judicial follow-up of killings of journalists. All four cases of killed journalists in the country are currently being considered ongoing according to information provided by the Government to UNESCO.

III. Review and specific recommendations

A. Education

Legislative, regulatory and policy framework:

- A proposal for the reform of the Organic Law of Higher Education (LOES) that focuses on three fundamental aspects: guarantee freedom and autonomy, expand the academic offer and improve admission processes, was presented before the General Assembly in August 2021.¹⁰
- Executive Decree No. 460 of 19 July 2018,¹¹ which provides for the inclusion of equality of women and men in school curricula and textbooks.
- In June 2021, the President declared new policies in the educational field around five axes:

⁸ <https://bit.ly/3ClrGp4>

⁹ <https://www.oas.org/es/cidh/decisiones/pdf/2018/25-18MC209-18-CO-210-18-EC.pdf>

¹⁰ Presidencia de la Republica del Ecuador, News: "*Estoy aquí para concretar un cambio real en las vidas de los jóvenes, comprometido en crear oportunidades para ellos*", *presidente Lasso*", August 2021, accessible at: <https://www.presidencia.gob.ec/estoy-aqui-para-concretar-un-cambio-real-en-las-vidas-de-los-jovenes-comprometido-en-crear-oportunidades-para-ellos-presidente-lasso/>

¹¹ <https://www.igualdadgenero.gob.ec/wp-content/uploads/2018/08/Decreto-Nro.-460-Reforma-al-Reglamento-General-de-la-Ley-Org%C3%A1nica-Integral-para-Prevenir-y-Eradicar-la-Violencia-contra-las-Mujeres..pdf>

- The first axis called 'Let's meet' consists of the design of a plan for the voluntary and progressive return to the classrooms that guarantees the health, well-being and comprehensive development of students.
- The second axis is 'All', aimed at those families who currently suffer from the lack of schools close to or related to their needs by strengthening the inclusive approach, including the rehabilitation of the rural schools that were unjustifiably suppressed between 2013 and 2016.
- The third axis, 'Free and Flexible', aims at including parents in the creation of the educational proposal to offer contents according to the community environment and with autonomy.
- The fourth axis, 'Strong', targets teachers with the aim of dignifying the career of student counselling professionals, teachers and managers, through continuous professional training, updating the teaching ranks and the implementation of complementary work incentives to salary.
- The fifth axis, 'Educational Excellence', aimed at the creation of an Educational System in which students meet the technology of the future.¹²
- School safety policy - Comprehensive School Risk Management System (SIGR-E).¹³ Implemented by the Ministry of Education (MinEduc) in the year 2017/2018, the aim is to guarantee the right of students to carry out academic activities in safe environments, strengthening the preventive attitude and preparing schools for possible emergency situations.
- National Strategic Plan for Afro-Ecuadorian Ethnoeducation 2020-2025.¹⁴ It aims to strengthen and execute the public policy that promotes the development of a comprehensive education, with quality and cultural relevance for the Afro-Ecuadorian people in the national education system. It includes the following strategic axes: Axis I - Participation and Mobilisation for Ethno-education; Axis II - Institutionalisation of Ethno-education; Axis III - Access, Permanence and Completion for Afro-Ecuadorian Students; and Axis IV - Quality and Relevance of Education for Afro-Ecuadorian Students. This responds to Recommendations N°118.82, N°118.116 and N° 118.106

¹² Secretaría General de Comunicación de la Presidencia, “*Presidente Lasso decretó nuevas políticas públicas en el ámbito educativo*”, June 2021, accesible at: <https://www.comunicacion.gob.ec/presidente-lasso-decreto-nuevas-politicas-publicas-en-el-ambito-educativo/> See also:

https://www.fielweb.com/App_Themes/InformacionInteres/Decreto_Ejecutivo_No._57_20210502195044.pdf

¹³ School safety policy - Comprehensive School Risk Management System (SIGR-E), accesible at: https://educacion.gob.ec/wp-content/uploads/downloads/2017/05/LibroI-Politica-Integral-de-Seguridad-Escolar_SIGR-E.pdf

¹⁴ <https://www.educacionbilingue.gob.ec/wp-content/uploads/2021/05/PLANETNOEDUCACION.pdf>

of the previous UPR cycle.

- Employment Plan 2021-2025, CREO 2021¹⁵, was adopted which notably includes the objective to ensure freedom of education with the highest quality standards at all levels.

Higher education

- Public Higher Education Institutions (HEIs) only offer places to six out of ten students. In the first semester of 2020, 173,000 young people applied for a place out of the 113,000 places offered by public HEIs.¹⁶ Through the reform of the LOES, educational opportunities should expand.

Compulsory education and minimum age of employment

- Compulsory education ends when the child turns eighteen. However, according to article 82 of the Code of childhood and adolescence of 2003,¹⁷ the minimum age of employment is 15. Although article 84 of the Code limits the effect of employment on the right to education, offered protection is not comprehensive as children could drop out of school to work.

Literacy

- UIS data reveals that only 77.3% male and 69.7% of people of age 65 or older are literate. According to the 2017 GEM report, “In upper middle- and high-income countries, including Ecuador and Uruguay, isolated illiterates tend to be older and living in one- or two-person households”.¹⁸

Rural areas

- According to the Employment Plan 2021-2025, on average, Ecuadorians barely complete ten years of education in urban areas and seven in rural areas.¹⁹ The plan aims to reconstruct schools in rural areas, in line with Recommendations N°118.118, N°118.116, N° 118.106, N°118.104, N°118.103, N°118.108 and N°118.112

¹⁵ Employment Plan 2021-2025, accessible at: <https://guillermolasso.ec/wp-content/uploads/2020/10/Plan-de-Gobierno-Lasso-Borrero-2021-2025-1.pdf>

¹⁶ Employment Plan 2021-2025, CREO 2021, op. cit., p. 17

¹⁷ <http://www.unesco.org/education/edurights/media/docs/8800f010947ce847b679f11a7c2361cacc62f261.pdf>

¹⁸ GEM report 2019: “Migration, displacement and education”, 2018, p. 178

¹⁹ Employment Plan 2021-2025, CREO 2021, op. cit., pp. 15-17

formulated in the last UPR cycle.

Financing education

- The expenditure on education as a percentage of total government expenditure on education was 11.47% in 2020.²⁰ The 2030 Education Framework for Action requires states to allocate “at least 15% to 20% of public expenditure to education” (para. 105). Nevertheless, Ecuador has allocated 4.13% of its GDP to education in line with the 4-6% required by the Framework for Action.

Digital education

- UNESCO’s Initiative on the [Evolving Right to Education](#) raises the risks that learners encounter in the digital environment. While guidance for the use of online platforms and other educational mediums during the pandemic were produced,²¹ and Article 347 of the Constitution provides for the eradication of digital illiteracy, Ecuador could enhance the protection of learners and their privacy in online educational settings, including through legislative measures.

COVID-19 pandemic

- Ecuador put in place the COVID-19 Educational Plan which aims to provide pedagogical, methodological, psycho-emotional and psychosocial tools that promote and strengthen the construction of an adaptable and contextualized educational model that responds to the diverse needs of the national territory and guarantees the right to education in the midst of the crisis.²² It includes two phases: Phase 1: Learning Together at Home (“*Aprendemos Juntos en Casa*”) and Phase 2: Educational continuity plan (“*Plan de continuidad educativa*”).
- According to UNICEF, “only 4 out of 10 households with children under 5 have had access to child development services, including pre-primary education, during the pandemic”, and as “[i]n 3 out of every 4 households in Ecuador, women exclusively take care of their children”, investing in early childhood is important not only to help parents but also ensure that children receive the care, nutrition and learning

²⁰ UIS data, Expenditure on education as a percentage of total government expenditure (%), 2020.

²¹ Ministerio de Educación, “*Lineamientos Generales para el uso de Plataformas Digitales y Otros Medios de Apoyo Educativo*”, March 2020, accessible at: https://www.gestionderiesgos.gob.ec/wp-content/uploads/2020/05/LINEAM_1.pdf

²² <https://educacion.gob.ec/plan-educativo-covid-19/>

opportunities they need.²³

- The UNESCO/Global Education Monitoring Report (GEM) report noted that the Organic Law of Humanitarian Support in Ecuador proposed that parents of private school pupils who lost their jobs would receive support of up to 25% of the monthly cost of tuition. Parents who decided to withdraw children from private schools would be guaranteed access to State schools”.²⁴

Specific recommendations:

11. Ecuador should be encouraged to:

- Consider harmonizing national legislation to ensure that children complete their compulsory education by aligning the minimum age of employment and related exceptions, with the full compliance with compulsory school attendance.
- Accelerate the reform of the Organic Law of Higher Education to ensure greater educational opportunities in higher education institutions.
- Take measures to increase literacy rates among the elderly, particularly amongst women.
- Continue efforts to enhance access to education in rural areas.
- Consider allocating at least 15% of government expenditure on education.
- Take measures to reinforce the protection of learners’ and their privacy in online educational settings, including through the adoption of adequate legislation.
- Ensure the continuity of early childhood education and care during emergency contexts, such as the COVID-19 pandemic.
- Submit regularly comprehensive national reports for the periodic consultations on UNESCO’s education-related standard-setting instruments, and notably on the Convention against Discrimination in Education.
- Share with UNESCO any relevant information to update its country profile on UNESCO’s [Observatory on the Right to Education](#) and [Her Atlas : Monitoring the right to education for girls and women](#).

B. Freedom of opinion and expression

²³ <https://www.unicef.org/lac/en/press-releases/covid-19-in-ecuador-has-left-6-out-10-families-without-access-to-early-childhood-services>

²⁴ GEM report 2021/2022: “Non-state actors in education”, 2021, p. 104

12. Ecuador is urged to continue to investigate the cases of killed journalists, and to voluntarily report on the status of judicial follow-up to UNESCO. The Government may wish to consider taking advantage of the UN Plan of Action on the Safety of Journalists and the Issue of Impunity as a means to strengthen protection of journalists and freedom of expression.
13. It is recommended that Ecuador take the necessary steps to ensure that the new reform under review is compliant with universal human rights standards, including by ensuring that there is an independent regulatory body.
14. It is recommended that the Government decriminalize defamation and crimes against honor and place it within a Civil Code that is in accordance with international standards, especially considering cases of journalistic investigations that could involve public officials.²⁵

C. Cultural Rights

15. As a State Party to the Convention concerning the Protection of the World Cultural and Natural Heritage (1972), the Convention for the Safeguarding of the Intangible Cultural Heritage (2003) and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005), Ecuador is encouraged to fully implement the relevant provisions that promote access to and participation in cultural heritage and creative expressions which are conducive to implementing the right to take part in cultural life as defined in article 27 of the Universal Declaration of Human Rights and article 15 of the International Covenant on Economic, Social and Cultural Rights. In doing so, Ecuador is encouraged to give due consideration to the participation of communities, practitioners, cultural actors and civil society organizations as well as vulnerable groups (minorities, indigenous peoples, migrants, refugees, young peoples and peoples with disabilities), and to ensure that equal opportunities are given to women and girls to address gender disparities.

²⁵ Page. 75. Corruption and Human Rights in the Americas: Inter-American Standards: <https://www.oas.org/en/iachr/reports/pdfs/CorruptionHR.pdf>

D. Freedom of scientific research and the right to benefit from scientific progress and its applications

16. Ecuador did not submit its National Report on the implementation of the Recommendation on Science and Scientific Researchers (2017) for the consultation period from 2018 to 2021. Therefore, Ecuador is encouraged to report to UNESCO on its implementation actions, especially noting legislative or other measures adopted by it with the aim to ensure application of these norms and standards in national law, policy and practice. Ecuador is invited to pay particular attention to the legal provisions and regulatory frameworks which ensure the implementation of human rights of scientific researchers themselves (rights of association, freedom of research, expression and publication, etc.) as well as human rights obligations related to the practice of science generally; the human rights related to access to and uses of scientific knowledge through education; the principle of non-discrimination, requiring, in this case, active promotion of women and girls entering scientific careers, as well as protections for human rights of human subjects of research. Ecuador reported under their previous UPR cycle the provision of scholarships by the Secretariat of Higher Education, Science, Technology and Innovation and the opening of spaces for the promotion of technological innovation. Ecuador is encouraged to continue to provide and expand input on issues covered by the 2017 Recommendation in its national report to the UPR to allow further discussions at the Human Rights Council and the formulation of specific recommendations. Additionally, Ecuador is urged to consider expanding the scope of application of freedom of expression to include scientists and scientific researchers.