

Universal Periodic Review

(20th session, Oct–Nov 2014)

Contribution of UNESCO to Compilation of UN information

(to Part I. A. and to Part III - F, J, K, and P)

El Salvador

I. BACKGROUND AND FRAMEWORK

Scope of international obligations: Human rights treaties which fall within the competence of UNESCO and international instruments adopted by UNESCO

I.1. Table:

<i>Title</i>	<i>Date of ratification, accession or succession dd/mm/yyyy</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)	Not state party to this Convention	<i>Reservations to this Convention shall not be permitted</i>		Right to education
Convention on Technical and Vocational Education (1989)	Not state party to this Convention			Right to education
Convention concerning the Protection of the World Cultural and Natural Heritage (1972)	08/10/1991 Acceptance			Right to take part in cultural life
Convention for the Safeguarding of the Intangible Cultural Heritage (2003)	13/09/2012 Ratification			Right to take part in cultural life
Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)	02/07/2013 Ratification			Right to take part in cultural life

II. Input to Part III. Implementation of international human rights obligations, taking into account applicable international humanitarian law to items F, J, K, and P

Right to education

Constitutional Framework:

2. The Constitution of 1983 as last revised in 2009¹ enshrines the right to education in its **Article 56**, which provides that “All inhabitants of the Republic have the right and the duty to receive a simple and basic education that will train them to perform as useful citizens. The State shall promote the formation of special education centers. When imparted by the State, kindergarten, basic, secondary and special education shall be free.” The last part of the Article was added in 2009. **Article 53** adds that “the right to education and culture is inherent to the human person; therefore, the preservation, promotion, and dissemination of culture is an obligation and the primary end of the State.” **Article 54** recognizes private education: “The State shall organize the educational system for which it will create the necessary institutions and services. Natural and juridical persons are guaranteed the liberty to establish private centers of teaching.”

3. Moreover, **article 58** prohibits any form of discrimination towards pupils and students on the basis of “marital status of their parents or guardians, social, religious, racial or political differences” and according to **Article 59**, Literacy is a social interest. **Article 62** states that although the official language in El Salvador is castellan, “indigenous languages are part of the national cultural heritage and shall be protected, spread and respected.”

Legislative Framework:

4. The basic legislative framework for education in El Salvador is made up of:

- *The General Law on Education*² (Legislative decree n° 917 of 1996) provides the basis, principles and purposes of education and lays down the organisation of the educational system.
- *The Law on Professional Training*³ (Legislative decree n° 554 de 1993) creates the National Institute for Professional Training.
- *The Law on Higher Education*⁴ (Legislative decree n° 522 de 1995) organises the legal framework for higher education. It also addresses the quality issue by establishing a

¹ http://www.asamblea.gob.sv/asamblea-legislativa/constitucion/Constitucion_Actualizada_Republica_El_Salvador.pdf

² http://planipolis.iiep.unesco.org/upload/El%20Salvador/El_Salvador_ley_educacion.pdf

³ <http://www.unesco.org/education/edurights/media/docs/942aafea0c4ee310f8e288e2ccf7d88cff655453.pdf>

⁴ <http://www.unesco.org/education/edurights/media/docs/f32fffa1afba9cdd5dc4e9b3f55604382adff1af.pdf>

consultative Council (*Consejo de Educación Superior*) for the Ministry of higher education.⁵

- *The Law on Teachers' Career*⁶ (Legislative decree n° 665 de 1996)

Policy Framework:

– General information

5. The National Plan on Education 2021⁷ (*Plan Nacional de Educación 2021*) was launched in 2004. The four objectives of the plan are the following: 1. Integral training of people; 2. Eleven schooling grades for the whole population; 3. Highest level of technical and technological training; 4. Development of technology and sciences for the social welfare. The four priorities for action of the plan are the following: 1. Access to education; 2. Effectiveness of basic and secondary education; 3. Competitiveness; 4. Good governance practices.

6. Among the specific programmes established on this basis, “EDUCAME” aims to find out flexible educative answers for children and adults that drop out schools for any reason.

– Gender equality

7. The Ministry of Education and the Vice president of the Republic have launched a strategy to combat violence based on gender. This strategy follows the Law on integral protection of girls and teenage girls.⁸

– Education in conflict areas

8. El Salvador covered by the Human Rights Watch survey⁹ is classified as a Country with Implicit Restrictions on the Use of Schools.

9. The Ministry of Defense in El Salvador confirmed that there were restrictions on the use of education buildings, citing article 72 of the Code of Military Justice, which states that it is a crime for the military to “unduly or unnecessarily occupy” a building, punishable with imprisonment of one to five years.¹⁰

⁵ “Background paper prepared for the Education for All Global Monitoring Report 2009, A compilation of background information about educational legislation, governance, management and financing structures and processes: Latin America”, p. 133

⁶ <http://www.unesco.org/education/edurights/media/docs/500cf66047bb98b6f4aa2d227ba25cb9f48518e5.pdf>

⁷ <http://www.unesco.org/education/edurights/media/docs/026c8a8055f385f35442093f00881ddbdf14d571.pdf>

⁸ <http://www.diariocolatino.com/es/20110526/nacionales/92856/Educaci%C3%B3n-lanza-estrategia-de-prevenci%C3%B3n-contr-la-violencia-de-g%C3%A9nero.htm>

⁹ Schools and Armed Conflict, Human Rights Watch, July 2011, p.57-59 :

<http://www.hrw.org/sites/default/files/reports/crd0711webwcover.pdf>

¹⁰ Código de Justicia Militar de 1964, May 5, 1964, art. 72, available at

<http://www.csj.gob.sv/leyes.nsf/efe7469ed5879>

9b286256d480070874f/f841e184afed9d8406256d02005a3f1e?OpenDocument (accessed March 2011), and letter to Human Rights Watch from David Munguía Payés, directorate of legal affairs, Ministry of National Defense, December 2, 2010.

Cooperation:

10. El Salvador **is not party** to **1960 UNESCO Convention against Discrimination in Education**.

11. El Salvador **reported** to UNESCO on the measures taken for the implementation of the 1960 UNESCO Recommendation against Discrimination in Education within the framework of the **Sixth Consultation** (covering the period 1994-1999).

11. However, it **did not report** to UNESCO on the measures taken for the implementation of the 1960 UNESCO Recommendation against Discrimination in Education within the framework of the:

- **Seventh Consultation** of Member States, 2007 (covering the period 2000-2005)
- **Eight Consultation** of Member States, 2013 (covering the period 2006-2011)

13. El Salvador **did not report** to UNESCO on the measures taken for the implementation of the 1974 UNESCO Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms within the framework of the:

- **Fourth Consultation** of Member States, 2009 (covering the period 2005-2008).
- **Fifth Consultations** of Member States, 2013 (covering the period 2009-2012).

14. El Salvador **did not report** to UNESCO on the measures taken for the implementation of the 1976 UNESCO Recommendation on the Development of Adult Education within the framework of the **First Consultation** (1993). However, it reported within the framework of the **Second Consultation** (2011).

15. El Salvador **is not party** to 1989 UNESCO Convention on Technical and Vocational Education.

Freedom of opinion and expression

Constitutional and Legislative Framework:

16. Freedom of expression is guaranteed under Article 6 of the El Salvadorian Constitution (1983).¹¹

17. El Salvador decriminalized slander, libel, and defamation through an amendment to the Penal Code in September 2011, replacing imprisonment with fines and suspensions for journalists who commit crimes against public image and privacy.¹²

¹¹ <http://pdba.georgetown.edu/Constitutions/ElSal/constitucion2003.pdf>

¹² <http://kellywarnerlaw.com/elsalvador-defamation-laws/>

18. The Law on Access to Public Information was passed in 2010.

Media Self-Regulation:

19. Media self-regulation mechanisms exist in the country through organizations such as the El Salvador Journalists Association (APES).¹³

Safety of Journalists:

20. UNESCO recorded the killing of journalists Alfredo Antonio Hurtado and Christian Poveda which took place in El Salvador in 2009 and 2011.¹⁴ The Director-General of UNESCO condemned these killings and called on the country to inform UNESCO, on a voluntary basis, of the actions taken to prevent the impunity of the perpetrators. In 2011, El Salvador informed UNESCO that the perpetrator of the killing of Christian Poveda had been convicted, although no information had been received on the case of Alfredo Antonio Hurtado by November 2013.¹⁵ Journalists are generally able to work safely in El Salvador.

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

21. The Constitution of El Salvador (1983, amended in 2003) in its Article 60 contains the following provision: (...) Academic freedom is guaranteed¹⁶.

Equality and non-discrimination, Right to life, liberty and security of the person, Right to social security and to an adequate standard of living

Situation of young people

22. Co-operation: UNESCO is working to find practical solutions to the problem of maras in Central American school, including in El Salvador. Maras are extremely violent youth gangs that take over a territory to extort, charge tolls, control prostitution and drug trafficking, among other

¹³ <http://www.rjionline.org/MAS-Codes-El-Salvador-Press>

¹⁴ <http://www.unesco.org/new/en/communication-and-information/freedom-of-expression/press-freedom/unesco-condemns-killing-of-journalists/countries/el-salvador/>

¹⁵ Decision on the Safety of Journalists and the Issue of Impunity. Adopted by the IPDC Intergovernmental Council at its 27th Session (available at http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/ipdc2010_safety_decision_final.pdf)

¹⁶ Unofficial translation from <http://confinder.richmond.edu/admin/docs/ElSalvador1983English.pdf>.

criminal activities¹⁷. In 2006-2008, UNESCO in cooperation with the National Secretary of Youth Affairs, the Ministry of Education and other Governmental Institutions and NGOs of El Salvador implemented the project aimed at preventing violence and advancing the right to development of young people (*Desarrollo Juvenil y Prevención de la violencia en El Salvador*). The project was implemented in 8 Youth Integral Development Centers (Centros Integrales de Desarrollo Juvenil – CID) and reached 10,000 young people from these centres¹⁸.

Gender equality

23. Salas in Oshako (1997) reports high levels of sexual abuse in the Latin American countries covered by the report (Colombia, El Salvador, Guatemala, Nicaragua and Peru)¹⁹.

24. Co-operation: In an effort to lessen and eliminate sexist stereotypes from public conscience and behavior, in El Salvador, UNESCO produced a range of non-formal education board games for girls and women. Assembled according to several themes, such as peace and democracy, environmental conservation, gender issues, and other, these board games stimulate reflection and a questioning of attitudes. Thus, in the game *La Juana Sin Miedo*, the questions appearing on colourful cards allow the player to progress through the game. All the questions relate to women's and girls' human rights, such as their right to education, marriage, employment, family planning, etc²⁰.

Personnes handicapées:

25. Coopération : En 2012-2013, dans le cadre du programme de l'UNESCO visant à établir la méthodologie pour évaluer le niveau d'inclusion des politiques publiques, l'unité universitaire d'El Salvador de la Faculté latino-américaine de sciences sociales (FLACSO) a réalisé, avec le soutien financier de l'UNESCO, l'évaluation du niveau d'inclusion des politiques publiques pour les personnes handicapées, en particulier les jeunes, à El Salvador.

26. Obligations internationales : El Salvador a ratifié la Convention des Nations Unies relative aux droits des personnes handicapées (2006) le 30 mars 2007 et le Protocole facultatif se rapportant à la Convention le 14 décembre 2007. El Salvador a exprimé des réserves quant à l'article 12 de la Convention des Nations Unies relative aux droits des personnes handicapées. Cet

¹⁷ For more information, please see: <http://unesdoc.unesco.org/images/0018/001891/189108e.pdf>.

¹⁸ For more information, please see:

<http://www.unesco.org/new/en/social-and-human-sciences/themes/youth/development-and-violence-prevention/projects/el-salvador/>.

¹⁹ Salas, L. M. (1997) Violence and aggression in the schools of Colombia, El Salvador, Guatemala, Nicaragua and Peru, in Oshako, T. (ed) *Violence at School: Global Issues and Interventions*, Paris: UNESCO/IBE. See: <http://unesdoc.unesco.org/images/0014/001467/146763e.pdf>.

²⁰ For more information, please see : <http://unesdoc.unesco.org/images/0012/001211/121145e.pdf>.

article reconnaît la personnalité et la capacité légale des personnes handicapées. Ainsi, ces réserves affaiblissent d'une manière considérable la protection légale des personnes handicapées dans le pays.

27. Néanmoins, présentant le rapport initial d'El Salvador sur les mesures prises par ce pays pour se conformer aux dispositions de la Convention relative aux droits des personnes handicapées au Comité des droits des personnes handicapées en septembre 2013, M. Juan José Garcia, Vice-Ministre des relations extérieures d'El Salvador, a notamment indiqué que le Gouvernement salvadorien a engagé le processus interne visant le retrait de la réserve que le pays avait émise à l'égard de la Convention²¹.

28. Dans le contexte régional, El Salvador a ratifié la Convention interaméricaine pour l'élimination de toutes les formes de discrimination contre les personnes handicapées.

(i) Le droit constitutionnel national: La Constitution du Salvador garantit le droit au travail aux personnes handicapées socialement, physiquement et mentalement, ainsi que le droit à l'éducation primaire. ii) Le droit infra constitutionnel: En 2000, l'Assemblée Générale d'El Salvador a mis en application la loi "Ley de equiparación de oportunidades para las personas con discapacidad" (« La loi d'égalisation des chances pour les personnes handicapées ») conformément à la disposition constitutionnelle selon laquelle l'Etat est tenu de promouvoir la justice sociale (Article 1). Cette loi a créé le CONAIPD (*Consejo Nacional de atención a persona con discapacidad*) et introduit un système de discrimination positive en faveur des personnes handicapées. (iii) Cadre législatif : Sous les auspices du CONAIPD, les Normes "Normativa técnica de accesibilidad urbanística, arquitectónica, transporte y comunicaciones" (2003) sont entrées en vigueur. Cet instrument légal vise à reconcevoir l'architecture du pays afin que les personnes handicapées aient un accès total aux espaces et au transport public.

29. Le rapport final de FLACSO sur l'évaluation du niveau d'inclusion des politiques publiques pour les personnes handicapées au Salvador indique que la Constitution nationale, particulièrement les articles relatifs aux droits des personnes handicapées, est obsolète, et par conséquent, a besoin d'être mise à jour à la lumière de la Convention des Nations Unies. La loi "Ley general de educación" a besoin également d'être révisée afin qu'elle soit en conformité avec les normes légales internationales.

30. En ce qui concerne le domaine de l'éducation, *la Política de Educación Inclusiva* du Ministère de l'éducation a lancé un Programme de 22 écoles pilotes répondant tout à fait aux conditions requises pour les personnes handicapées. Par ailleurs, les questions telles que l'indépendance fonctionnelle des personnes handicapées sont traitées à travers *l'Instituto Salvadoreño de Rehabilitación Integral* rattaché au Ministère de santé publique et des travaux d'assistance sociale pour l'indépendance.

²¹ Pour plus d'information voir:

<http://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=13685&LangID=F>.

31. Selon le rapport, faisant la référence au manque de ressources financières de la part des Etats pour examiner la question des personnes handicapées, mentionne qu'au Salvador, les actions politiques ne visent pas spécialement les besoins des personnes handicapées. Ceci est dû à l'inexactitude des données sur les personnes handicapées – le gouvernement ne connaît pas les besoins des citoyens – mais ceci peut aussi être considéré comme la conséquence d'un manque de ressources financières pour examiner cette question.

32. Au Salvador, le rapport indique également que la population n'est pas très sensible à la situation des personnes handicapées. C'est pour cela que le rapport suggère en outre l'organisation de campagnes de sensibilisation de la population aux questions des droits des personnes handicapées.

33. Le rapport final préparé par FLACSO sur la base de l'évaluation du niveau d'inclusion des politiques publiques pour les personnes handicapées, en particulier les jeunes, à El Salvador, contient quelques recommandations, notamment :

- El Salvador devrait regrouper tous les groupes concernés par l'inclusion sociale, soit les immigrants, les jeunes personnes handicapées et les groupes ethniques pour élaborer les politiques publiques d'ensembles d'inclusion sociale ;
- Soulignant que El Salvador a préparé les examens des politiques sur la base de groupes de consultation et assuré la nécessité de discuter avec les personnes intéressées d'une manière interactive tout au long du processus visant l'élaboration de politiques, il est recommandé qu'une enquête sur la connaissance des législations et le niveau d'inclusion soit réalisée pour parvenir à une base conceptuelle unifiée ;
- El Salvador est recommandé d'harmoniser la législation nationale avec les conventions internationales et de modifier la loi constitutionnelle.

III. RECOMMENDATIONS

Right to education

34. In the Report of the Working Group on the Universal Periodic Review of 9 February 2010²², El Salvador was recommended to promote human rights education in order to combat insecurity and violence.

35. The following recommendations were made to El Salvador regarding education, which accepted them:

- 32. *To intensify its efforts to [...] undertake awareness campaigns, human rights education and training programmes for members of the police and to provide greater resources to the judicial services entrusted with addressing those issues (Ireland);*
- 35. *To accelerate the ongoing legislative reform to combat insecurity and violence against women and children and to consolidate those measures, including through*

²² <http://www.upr-epu.com/files/158/G.E.pdf>

improved statistics or educational programmes in schools regarding human rights and gender equality (Luxembourg);

- *54. To provide adequate professional training and human rights education to PNC (Canada);*
- *55. To include programmes on human rights education at all levels of the armed forces and police, and to provide assurances of transparency and participation to civil society in every cooperation project related to justice and security (Spain);*
- *68. To continue to carry out actions and programmes aimed at guaranteeing educational and health services for all (Cuba);*
- *32. To amend the Family Code in order to raise to 18 the minimum age for marriage; to define forced marriage as a crime; to intensify educational measures in the area of reproductive health; and to improve the conditions of access to secondary education, especially in rural areas (Spain);*
- *39. To ratify the convention to combat discrimination in the area of education (Kyrgyzstan);*

36. Analysis: El Salvador has not reported to UNESCO within the framework of the Consultations conducted regarding the implementation of the 1974 UNESCO Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms and regarding the implementation of the 1960 UNESCO Recommendation against Discrimination in Education. No additional information is available on possible measures taken to promote human rights education.

Specific Recommendations on the right to education for the 2nd UPR cycle:

37. El Salvador is strongly encouraged to ratify the 1960 UNESCO Convention against Discrimination in Education.

38. El Salvador is encouraged to submit regular state reports for the periodic consultations of UNESCO's education related standard-setting instruments.

39. El Salvador is encouraged to continue its efforts in combatting discrimination in education, and particularly discrimination against girls and women.

40. El Salvador is encouraged to intensify its efforts to address dropout rates, to promote equality in access to education.

Freedom of opinion and expression

41. UNESCO urges El Salvador to investigate all attacks on journalists and media workers.

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

42. With regard to contribution of science and technology to development, El Salvador is encouraged to report to UNESCO within the framework of the on-going consultations with Member States on the monitoring of the implementation and a possible revision of the 1974 Recommendation on the Status of Scientific Researchers, in particular on the measures undertaken in the country to implement such principles of the Recommendation as the obligation of state authorities to ensure that scientific researchers have the responsibility and the right to work in a spirit of intellectual freedom; to participate in the determination of the aims, content and methods of research, which should be compatible with respect for universal human rights and fundamental freedoms, as well as ecological and social responsibility; to creativity, occupational mobility, international cooperation for furtherance of international peace, cooperation and understanding, etc.