

**Universal Periodic Review
(13th session, 21 May - 1 June 2012)**

Contribution of UNESCO

ECUADOR

I. Background and framework

1. Human rights treaties which fall within the competence of UNESCO and international instruments adopted by UNESCO

A. Table

<i>Title</i>	<i>Date of ratification, accession 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	05/03/1979	<i>Reservations to this Convention shall not be permitted</i>		Right to education
Convention on Technical and Vocational Education. 1989	Not ratified			Right to education
Convention concerning the Protection of the World Cultural and Natural Heritage 1972	16/06/1975			Right to take part in cultural life
Convention for the Safeguarding of the Intangible Cultural Heritage 2003	13/02/2008			Right to take part in cultural life
Convention on the Protection and Promotion of the Diversity of Cultural Expressions 2005	08/11/2006			Right to take part in cultural life

II. Promotion and protection of human rights on the ground

1. Right to education¹

A. Normative Framework

i. Constitutional framework

1. The Constitution of Ecuador of 2008 grants the right to education mainly in *Title II, Chapter Two, Section Five* (Articles 26 to 29). In addition, *Title VII, Chapter One, Section One* deals with Education (Articles 343 to 347).

ii. Legislative framework

2. In relation with the right to education, the following legal tools can be mentioned:

- a. The *Law on Teachers' Career (1990) (Ley de Carrera Docente y Escalafón del Magisterio Nacional)*.
- b. The *Code on Childhood and Adolescence (2003) (Código de la Niñez y Adolescencia)* recognizes the right to education of quality in Articles 26 and 37.
- c. The new *Law on Higher Education (2010) (Ley de Educación Superior)*. The major changes of 2010 concerned the electoral process of the University Rectors. This Law aims to grant the right to higher education of quality and universal access to it without any form of discrimination (Article 2).
- d. The *New Organic Law on Intercultural Education* of 31 March 2011 (*Ley orgánica de Educación Intercultural (LOEI)*) enshrines the right to public, secular and free education of quality in *Article 4* and sets that the State has the

¹ Sources:

- 2008 Constitution : http://www.asambleanacional.gov.ec/documentos/constitucion_de_bolsillo.pdf
- World Data on Education, seventh edition, 2010/11, http://www.ibe.unesco.org/fileadmin/user_upload/Publications/WDE/2010/pdf-versions/Ecuador.pdf
- *Ley de Carrera Docente y Escalafón del Magisterio Nacional*, http://www.oei.es/docentes/info_pais/ley_carrera_docente_ecuador.pdf
- *Ley de Educación Superior*, <http://www.ucuenca.edu.ec/estatuto/images/stories/file/ley-organica-educacion-superior.pdf>
- *Código de la Niñez y Adolescencia*, http://www.oei.es/quipu/ecuador/Cod_ninez.pdf
- *Ley orgánica de Educación Intercultural*, http://www.educacion.gob.ec/_upload/Nueva_LOEI.pdf
- Instituto International para la Educación Superior en America Latina y el Caribe, http://www.iesalc.unesco.org.ve/index.php?option=com_content&view=article&id=2463%3Amodificada-ley-de-educacion-superior-en-ecuador&catid=11%3Aiesalc&Itemid=466&lang=es
- Ten Year Education Plan 2006-2015, http://www.educacion.gov.ec/_upload/TenYearEducationPlan.pdf
- Declaration of Otavalo, <http://indigenouspeoplesissues.com/attachments/article/5732/Declaracion%20de%20Otavalo%20-%20Ingles.pdf>
- EFA Global Monitoring Report 2010, p. 201, <http://unesdoc.unesco.org/images/0018/001866/186606E.pdf>
- El Ciudadano (Government's online news), http://www.elciudadano.gov.ec/index.php?option=com_content&view=article&id=20966:ministerio-de-educacion-lanza-la-propuesta-de-estandares-de-calidad-educativa-&catid=4:social&Itemid=45

obligation to grant the right to education and its universal access to all the inhabitants to Ecuador by providing equal opportunities (*Article 5*). Education is compulsory at primary and secondary levels. This Law defines rights and obligations of students, teachers, parents and the community. It promotes intercultural education with the inclusion of vernacular languages in the new curriculum. It also establishes new teachers' pay scales. This new Law promotes a modern, technical and inclusive vision of the education system in Ecuador with regard to the challenges of the 21st century.

B. Policy measures

3. In 2006, the Ministry of Education proposed at the headquarters of the National Education Council (“NEC”) drafting a *Ten Year Education Plan 2006-2015*. At the request of CNE, President Alfredo Palacio called and informed citizens of a Referendum about the eight education policies:

- a. Making early education from 0 to 5 years of age universal;
- b. Making basic general education (“BGE”) from first to tenth grades universal;
- c. Increase registration in the high school diploma program until at least 75% of the population for that age group is reached;
- d. Eradication of Illiteracy and Strengthening Alternative;
- e. Improvement of Physical Infrastructure and Equipment for Educational Institutions;
- f. Improvement of quality and fairness in education and implementation of the national evaluation system and social reporting of the education system;
- g. Revaluation of the teaching profession, professional development, working conditions and quality of life;
- h. The 0.5% annual increase in education’s portion of the GDP until it reaches at least 6%.

4. The Ten Year Plan was approved by more than 66% of voters on 26 November 2006.

i. Ethnic Minorities

5. The 10th *Summit of the Bolivarian Alliance for the Americas (ALBA)* concluded on 25 June 2010 in Ecuador with new goals of social justice, aimed at the increasing inclusion of indigenous peoples and Afro-descendants. Ecuador signed the final document, *Declaration of Otavalo*, which defends the construction of inclusive, culturally diverse and environmentally responsible societies.

ii. Teachers' status

6. Several Latin American countries have introduced incentive packages including career development to encourage teachers to work in remote areas. For example,

teachers living in isolated areas of Ecuador get not only a bonus but also priority in being granted tenure. The incentives have helped reduce disparities in pupil/teacher ratios, but have also tended to attract the least experienced teachers to remote areas.

iii. Quality of Education

7. In 2011, Ecuador launched a proposal on education quality standards. These standards would permit to evaluate the knowledge, capacities and attitudes of students, teachers and directors. This aims to improve the quality of the education system by involving all the actors of the Education field.

C. Cooperation

8. Ecuador submitted a report to UNESCO in 2007 within the framework of the seventh consultation of Member States on the measures taken for the implementation of the Convention against Discrimination in Education (covering period 2000-2005).

9. Ecuador did not report within the framework of the fourth consultation of Member States on the measures taken for the implementation of the 1974 *UNESCO's Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms* (covering the period 2005-2008).

D. Achievements, best practices, challenges and constraints

i. Achievements

10. The adoption of two new laws in the field of education: the *Law on Higher Education* in 2010 and the *New Organic Law on Intercultural Education* in 2011.

ii. Constraints and challenges

11. In Ecuador, malnutrition rates among indigenous children are twice the level for non-indigenous children. One reason that many linguistic and ethnic minority children perform poorly in school is that they are often taught in a language they struggle to understand. However, Ecuador is delivering effective bilingual education compared to other countries in Latin America. This requires the development of institutional capacity to train bilingual teachers. This is an area in which national targets are often delinked from public spending allocations and a longer-term strategy for change. One reason Ecuador has been able to deliver strong bilingual teaching is that it has established five specialized teacher-training colleges.

E. Capacity-building and technical assistance provided and/or recommended by UNESCO

12. The UNESCO Office in Quito, in collaboration with UNICEF, has contributed with the inclusion of a rights approach in the Intercultural Education Law through: technical assistance to parliamentarians of the Commission responsible for drafting the Law by delivering global statements and commitments in education as well as technical meetings attended by the Director of the Office and the Education Specialist; technical and financial support for the creation of the technical team responsible for drafting the proposal of the Law, technical assistance during the process of dialogue

and consultation with educational stakeholders at national level and in the 5 regions in the country.

2. Right to take part in cultural life²

A. Normative Framework

i. Constitutional framework

13. The Constitution establishes the principle that Ecuador is a multicultural, multi ethnic entity that recognizes the collective rights of indigenous peoples in the following areas: cultural diversity, identity, land rights, justice, and official use of languages, health, education, economic rights, cultural heritage, indigenous women and indigenous peoples in border areas.

ii. Legislative framework

14. The Government published the General Law for Intercultural Education on 31 March 2011 (Law N° 417). With the approval of this Law, important advances regarding the recognition of cultural diversity and intercultural education have been achieved. It highlights the importance of a national culture based on respect, equity and diversity, prioritizing notably indigenous persons and those of African descent.

15. The General Law for Culture is currently undergoing a consultation process between the various social actors and the National Legislative Assembly. It is expected to be approved during its next session in 2012. The Law will establish regulations for and assigned specific to the National Culture System, established by the Ecuadorian constitution in its article 378 in 2008 and constituted by the institutions engaged in cultural activities and which receive public funding. The Law will also take into account various aspects related to the cultural rights of the Ecuadorian society.

B. Institutional framework

16. The Ministry of Culture was created in January 2007, emphasizing the importance of cultural development. The Government also established the Ministry of Coordination for Cultural and Natural Heritage, responsible for coordinating activities and actions executed by the Ministries of Culture, Environment, Education Health and Sports as part of the National Culture System.

17. A National Institute of Cultural Heritage was established to support and guide the implementation of the cultural conventions. New departments for the management, follow-up and monitoring of cultural, natural and intangible heritage were created. The work carried out by these departments supports the implementation of the Convention concerning the Protection of the World Cultural and Natural Heritage 1972 and Convention for the Safeguarding of the Intangible Cultural Heritage 2003.

² Sources :

- Ecuadorian National Constitution
- Documentation from the Ministry of Culture

C. Policy measures

18. The Ministry of Culture spearheaded the elaboration of the "National Dialogue for Interculturality", which is a framework for the elaboration of policies and activities in the cultural field. This framework considers the people of Ecuador as the creator and the depositary of culture in all its various forms.

19. The Ministry of Culture has applied various mechanisms (e.g. national awards or grant funds) to promote the elaboration of projects and sponsor creative industries in support of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions 2005 in fields such as cinema, video, theatre, heritage and cultural management.

D. Cooperation

20. Support has been provided to the National Assembly for achieving national consensus in the preparation of the General Law for Intercultural Education through the provision of experts' advice, the organization of workshops and the facilitation of consultations.

21. UNESCO also collaborates with governmental institutions to render heritage projects operational. It also provides technical support and coordinates efforts with the Ministry of Coordination for Cultural and Natural Heritage and the Ministry of Culture in the elaboration of cultural policies and measures related to intercultural dialogue, the protection of intangible cultural heritage and the fight against racism and social exclusion.

22. Through the Millennium Development Goals programme, UNESCO has supported research on the intangible cultural heritage of the afro Ecuadorian people. Cultural empowerment initiatives, directly related to the implementation of the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions, have benefited more than 400 indigenous and 200 afro descendant families.

23. Thus, cooperation between UNESCO and the Ecuador authorities support the principles of the cultural conventions, with emphasis on promoting the visibility and social inclusion of minority groups and communities.

E. Work with civil society

24. The involvement of different segments of the civil society, such as art students, artists and journalists specialized in the cultural life and development of the country has progressed. UNESCO encourages their active participation in the elaboration of cultural initiatives which integrate the protection and promotion of intangible cultural heritage and the diversity of cultural expressions as per the 2003 Intangible Heritage and 2005 Diversity of Cultural Expressions Conventions, thereby enhancing the role of the civil society in supporting the principles of these two instruments.

F. Achievements, best practices, challenges and constraints

25. Ecuadorian cultural heritage is extremely rich, and in many cases not as protected or promoted as it should be, particularly due to the lack of technical competences of the responsible national authorities. Therefore, one of the most urgent challenges for

the country remains to strengthen these competences, in particular for the implementation of the conventions, while ensuring a greater involvement of the civil society at large. In this regard, innovative experiences related to cultural expressions with indigenous communities and afro-descendants have been successfully implemented.

26. Ecuador has demonstrated a strong interest in the implementation of the various cultural conventions. The creation of both the Ministry of Coordination for Cultural and Natural Heritage and the Ministry of Culture, and their cooperation with UNESCO have demonstrated the interest of the government to give culture and the cultural conventions an important role to play in the society. This dynamic is evidenced in the recent policies adopted, which have strengthened the political and administrative governance system as it relates to culture.

G. Capacity-building and technical assistance provided and/or recommended by UNESCO

27. UNESCO implements a wide range of activities to facilitate the implementation of the 1972 and 2003 Conventions. It provides assistance in the elaboration of policies for the strengthening of local capacities for cultural management, in the recovery of intangible heritage of the Afro Ecuadorian people, and in developing projects related to cultural expressions in indigenous and afro Ecuadorian communities. Technical support has also been provided for the elaboration and dissemination of the Plurinational Plan against Racism and Cultural and Ethnic Exclusion.

28. UNESCO encourages its Ecuadorian counterparts to apply for technical assistance in the cultural field through the Funds established under the three cultural conventions. It also encourages to submit national projects that are conducive to enhancing the participation of the society in cultural life and requiring technical assistance to UNESCO's donors.

3. Freedom of opinion and expression

A. Achievements, best practices, challenges and constraints

i. Legislative framework

29. Freedom of expression is protected by the Constitution and the Radio and Television Broadcasting Law (1975-1995). A draft Communications Law is also currently being examined by the National Assembly of Ecuador. However, there are several areas of the current Constitution and the draft Communication Law which could restrict freedom of expression. These include the preconditioning of information to be truthful, verified, timely, contextualized and plural; no clear limit to the imposition of liability in the Constitution; and the indiscriminate use of blanket presidential broadcast space to air official programmes which affect the editorial independence of media outlets. In addition, under the Law on Professional Journalist Practice and the draft Communications Law, journalists are required to hold professional degrees.

30. Libel, defamation, threats or insults law are still part of the criminal code which has the potential to provoke a chilling effect on public debate. A recent judgment

demonstrates how penal dispositions are being used in Ecuador. The newspaper *El Universo*, three members of its board of directors and the journalist Emilio Palacio, were found guilty of aggravated defamation against a public official. The board members and the journalist were sentenced to three years in prison and ordered to pay a total of US\$ 40 million in damages to the President of the Republic.

31. There is no specific legislation on public media in Ecuador. Public broadcasters have been operating under the Public Enterprise of National Television of Ecuador (ECTV) since October 2007. As a result, there is no law establishing specific guarantees of editorial independence or appropriate secure funding for public media.

32. Ecuador does not have an independent regulatory system that guarantees the equitable distribution of frequencies among the private, public and community sectors. Only 0.2% of radio stations and 0% of television channels belong to the community sector. Despite the community vocation of many of them, and due to the restrictions foreseen by the law on community media, the vast majority of these radio stations function as private entities.

33. Moreover, the radio and television sector's regulation does not favour diversity of media for the following reasons: the concentration of media ownership in one single sector, as mentioned above; the number of radio and television frequencies under the control of an individual or corporate entity (which has increased following amendments to the Law on Radio and Television in 1995); the mechanisms approved by the regulatory body that allowed for greater concentration; the subordination of the regulatory body to the Ministry of Telecommunications; and widespread discrimination against community media.

ii. Media self-regulatory system

34. In Ecuador there is no industry-wide complaints body, such as a Press Complaint Commission for all print media. The use of codes of ethics and editorial guidelines in media outlets is not guaranteed in practice. Few print media give preparatory courses on ethical standards and the use of codes and guidelines to new journalists and a great majority of the journalist federations consider that codes of ethics are not applicable to the media.

35. According to the Assessment of Media Development in Ecuador-2011, based on UNESCO's Media Development Indicators, there are differing opinions about the honesty of journalists and the media. For 49.95% of those surveyed, journalists are honest, while 46.85% feel they are corrupt. As for citizens' perception of media integrity, 51.74% consider the media to be corrupt, while 45.35% feel they are honest. This reveals a marked division among the citizenry between those who have a negative perception of the media and of journalists and those who have a positive opinion. The survey also suggests that despite the negative opinion that some citizens may have about media, some of these same citizens still trust media content.

iii. Safety of journalists

36. The safety of journalists in Ecuador is limited. Journalists are at risk of physical violence, intimidation and murder. The UNESCO Director General has condemned 2 killings of media professionals between 2008 and 2011.

B. Capacity-building and technical assistance provided and/or recommended by UNESCO

37. UNESCO has collaborated at different levels to raise awareness on the importance of freedom of expression in Ecuador. For instance, UNESCO has provided technical assistance to the National Assembly (Parliament) during the drafting process of the new communications law by analyzing the official drafts in order to assess whether the proposed legislation meets relevant international standards. Major incompatibilities with international standards were brought to the attention of the President of Parliament and MPs.

38. Furthermore, UNESCO has carried out a complete study on the Ecuadorian media landscape, resulting from the application of UNESCO's Media Development Indicators (MDI) in Ecuador, entitled Assessment of Media Development in Ecuador 2011. This offers a diagnosis of the state of media development in the country, covering the five areas considered by MDIs: the legal framework; radio and television regulation; media pluralism and diversity; capacity building of media professionals; and media infrastructure.

39. The report reveals the strengths and weaknesses of the Ecuadorian media landscape and concludes with a series of recommendations addressed to different communication actors. This report was presented to the President of Ecuadorian Parliament, Fernando Cordero on 15 March 2011 in order to contribute to the parliamentary debate on the draft Communications Law.

40. In addition, UNESCO collaborates with journalists, media, civil society organizations, professional unions and the academy in order to reinforce the right to freedom of expression and access to information.

III. Recommendations

1. Right to education

41. Ecuador should be encouraged to report to UNESCO within the framework of the eighth consultation of Member States on the measures taken for the implementation of the Convention and the Recommendation against Discrimination in Education (covering the period 2006-2011).

42. UNESCO recommends:

- a. Guaranteeing the right to education of pregnant teenage girls as most of them are out-of-school.
- b. Improving policies towards indigenous students notably by providing bilingual education.

2. Right to take part in cultural life

43. The approval of the General Law for Culture would be an important step towards the improvement of culture rights recognition and their widest application across the society.

3. Freedom of opinion and expression

44. There are several opportunities for developing and protecting freedom of expression in Ecuador. UNESCO recommends:

- a. The Ecuadorian legislative framework should be brought in line with international and Inter-American standards for freedom of expression, and the possibility of restrictions to this right through interpretation of the provisions of the Constitution and related laws, including the current draft communications law, should be eliminated
- b. Initiatives to strengthen/develop self-regulation mechanisms should be supported and measures to ensure the right of media workers to form unions should be encouraged
- c. Initiatives to encourage journalism education in universities and schools should be supported, and alliances between training institutions and the media should be strengthened
- d. A precise plan for digital migration that ensures equitable presence of all three tiers of broadcasters in the new digital system should be developed