

Universal Periodic Review (33rd session, April-May 2019)
Contribution of UNESCO

Nicaragua

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>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>
<i>Convention against Discrimination in Education 1960</i>	State Party to this Convention (28/09/1981)	Reservation to this Convention shall not be permitted		Right to education
<i>Convention on Technical and Vocational Education 1989</i>	Not a State Party to this Convention			Right to education
Convention concerning the Protection of the World Cultural and Natural Heritage 1972	17/12/1979 Acceptance			Right to take part in cultural life
Convention for the Safeguarding of the Intangible Cultural Heritage 2003	14/02/2006 Ratification			Right to take part in cultural life
Convention on the Protection and Promotion of the Diversity of Cultural Expressions 2005	05/03/2009 Ratification			Right to take part in cultural life

II. Promotion and protection of human rights on the ground

Right to Education

1. The **Constitution of Nicaragua of 1987, as amended in 2014**¹, guarantees the right to education under **Article 58**. **Article 121** provides that “the access to education is free and equal for all Nicaraguans”. It states that “primary education is **free of charge** and **mandatory** at the centers of the State” and that “the primary education is **free of charge** at the centers of the State without prejudice to any voluntary contributions which parents of the family may make”. **Article 27** enshrines the **principle of non-discrimination** and provides that “All individuals are equal before the law and have the right to equal protection. There shall be no discrimination based on birth, nationality, political belief, race, gender, religion, opinion, origin, economic position or social condition”. The **General Law of Education 582**² establishes the general guidelines for education and the national education system.

Freedom of opinion and expression

➤ Constitutional and Legislative Framework:

2. Article 30 of the Constitution guarantees everyone to have the right to freely express their thoughts in public or private, individually or collectively, in oral, written or by any other means.³

3. Defamation remains a criminal act under Articles 202 to 205 of the Penal Code of 2008 with monetary penalty. At the same time, Article 429 of the Penal Code also contains punishment of up to five years imprisonment for crimes against freedom of expression and information including preventing the right to inform and be informed⁴.

4. A law on freedom of information was passed in 2007.⁵

5. In its most recent report titled *Gross human rights violations in the context of social protests in Nicaragua* the Inter-American Commission on Human Rights ascertains that from the very beginning of the recent protests the State undermined the freedom and independence of the media.⁶

6. According to the report, the State opted for direct and indirect forms of censorship, obstruction of the work of journalists, improper interference and pressure. At least 15 journalists working for three of the main television channels in the country resigned in protest against the censorship.⁷

¹ https://www.constituteproject.org/constitution/Nicaragua_2014.pdf?lang=en

² <http://www.unesco.org/education/edurights/media/docs/59202af43612e22d87d46940b400e12aca87bac8.pdf>

³ http://www.wipo.int/wipolex/en/text.jsp?file_id=228190#LinkTarget_1180

⁴ [http://legislacion.asamblea.gob.ni/Normaweb.nsf/%28\\$All%29/1F5B59264A8F00F906257540005EF77E?OpenDocument](http://legislacion.asamblea.gob.ni/Normaweb.nsf/%28$All%29/1F5B59264A8F00F906257540005EF77E?OpenDocument)

⁵ <https://freedomhouse.org/report/freedom-press/2012/nicaragua>

⁶ www.oas.org/en/iachr/reports/pdfs/Nicaragua2018-en.docx

⁷ www.oas.org/en/iachr/reports/pdfs/Nicaragua2018-en.docx

➤ Implementation of Legislation:

7. The Nicaraguan Institute for Telecommunications and Post (TELCOR), according to the law of 1982,⁸ not only serves as the country's media regulator, but also manages its telecommunications systems and postal service. The Director General, at the rank of minister, heads the agency.

8. IACHR reports that TELCOR arbitrarily ordered cable stations to suspend life transmission by audio-visual media covering the protests, thus introducing censorship. (205).⁹

➤ Safety of Journalists:

9. Since 2008, UNESCO has condemned the killing of one journalists in Nicaragua. Journalist Angel Gahona was murdered on April 21, 2018 while he was transmitting life. A request for information regarding the case that occurred in April 2018 is expected in 2019.

10. In addition to the killed journalist, the IACHR report documented the cases of at least 11 reporters attacked during the protests and recorded numerous complaints of journalists about threats received. The IACHR report also observes violent attacks against media and their installations.¹⁰

III. Review and specific recommendations

11. A number of recommendations was addressed to Nicaragua during the previous UPR cycle concerning the need to address and eliminate discrimination against vulnerable groups including women and girls, ethnic minorities, people of African descent and children with special needs. Recommendations included encouragements to Nicaragua to pursue its efforts in combatting illiteracy, reducing the number of school drop-out, improving enrolments rates and education infrastructures.

Constitutional and legislative framework

- The **Constitution of Nicaragua 1987, as amended in 2014**, guarantees under **Article 121** that education is **free of charge** at primary and secondary levels. However, the **obligatory nature** of education only refers to primary education under the same Article. **Article 119** provides that “Education is a fundamental duty of the State [...]” and specifies the framework of the educational system. **Article 116** defines the aims of education. With regard to **non-discrimination**, **Article 27** guarantees equality before the law and enshrines the principle of non-discrimination. When it comes to education, **Article 122** provides that

⁸ http://www.telcor.gob.ni/MarcoLegal.asp?Accion=VerRecurso&REC_ID=175

⁹ www.oas.org/en/iachr/reports/pdfs/Nicaragua2018-en.docx

¹⁰ www.oas.org/en/iachr/reports/pdfs/Nicaragua2018-en.docx

“No one may be excluded in any form from a State center for economic reasons” and states that access to education is equal for all Nicaraguans.

- The **General Law of Education**¹¹ establishes general guidelines for education and the national educational system, powers and obligations of the State, and rights and responsibilities of persons and the society. According to the eighth paragraph of the preamble and Chapter 2 of the Act (Articles 19 and 23), basic education (*educación básica*) is divided into three levels:
 - Initial education (*educación inicial*), which is provided for children under the age of 6;
 - Primary education (*educación primaria*), which is free and compulsory and lasts 6 years (from the age of 6 to 12);
 - Secondary education (*educación secundaria*), which is free and lasts 5 years (from the age of 12 to 17).

Policy framework

- There is no information available on whether an education plan was adopted in Nicaragua after the Education Strategic Plan 2011-2015¹².

Access to education

- Nicaragua has made progress in reducing the number of poor children who have never been to school¹³. The country has increased its **net enrolment ratios** by over 10 percentage points¹⁴. The primary attainment rate among children in the poorest households also increased from 16% to 66%¹⁵, a considerable increase which should be welcomed.
- On **literacy**, **Article 122 of Nicaragua’s Constitution** provides that “The State shall continue its educational programs to eliminate illiteracy”. Nicaragua has made significant progress in the regard, with the reduction of the adult population’s illiteracy rate to 5%¹⁶.

Quality education

- **Article 120 of the Constitution** provides that “Teachers have the right to standards of living and work corresponding to their dignity and the important social function that they carry out; they shall be promoted and encouraged in their work in accordance with the law”.
- However, in practice, Nicaragua faces **low levels of student learning outcomes** in regional assessments linked to poor preparation of primary school teachers and insufficient learning materials¹⁷. Many schools do not teach the basics of arithmetic in their early years. In 2011, around 60% of second-graders could not identify numbers correctly and more than 90% were unable to answer a subtraction question¹⁸.

¹¹ <http://www.unesco.org/education/edurights/media/docs/59202af43612e22d87d46940b400e12aca87bac8.pdf>

¹² <https://www.globalpartnership.org/content/nicaragua-plan-estrategico-de-educación-2011-2015>

¹³ EFA Global Monitoring Report, Education for All 2000-2015: Achievements and Challenges, p79, <http://unesdoc.unesco.org/images/0023/002322/232205e.pdf>

¹⁴ Ibid, p80.

¹⁵ Ibid, p83.

¹⁶ Global Partnership for Education - Education in Nicaragua, <https://www.globalpartnership.org/country/nicaragua>

¹⁷ Global Partnership for Education - Education in Nicaragua.

¹⁸ EFA Global Monitoring Report, Education for All 2000-2015: Achievements and Challenges 2015 p, 193.

- The country faces low quality of preschool education, particularly among disadvantaged rural households¹⁹.
- Nicaragua faces the challenge of **limited infrastructures** in education. Only 50% of Nicaraguan schools provide basic drinking water²⁰.

Non-discrimination

- **Article 121 of the Constitution** provides that “The indigenous peoples and ethnic communities of the Atlantic Coast have the right in their region to intercultural education in their native language, in accordance with the law”. **Article 11** provides that, although Spanish is the official language of the State, “The languages of the Communities of the Atlantic Coast shall also be officially used in the cases established by law”. **Articles 126 to 128** cover aspects of culture; they provide that it is the duty of the state to promote national culture and protect the patrimony of the nation.
- In practice, vulnerable groups such as indigenous and persons of African descent continue to face significant discrimination in accessing education.
- On **gender equality**, Nicaragua has seen gender disparity in primary attainment at the expense of the poorest boys improved since 2000²¹. Moreover, fewer boys than girls are enrolled in secondary education, but the situation of boys has been improving²². The level of inclusion of gender equality issues in national curriculum frameworks was reported as “MEDIUM” according to the 2018 Global Monitoring Report²³.

Harmful practices

- Despite constitutional provisions against this practice, **child labour** remains significant in Nicaragua. Moreover, disasters often damage or destroy school infrastructure which inherently impacts education provision beyond the short term. For example, Hurricane Mitch resulted in a 45% increase in child labour among the most affected households of the country²⁴.

Human rights education

- The level of **inclusion of human rights education** and **key terms related to sustainable development** in national curricular frameworks was reported as “HIGH” and “MEDIUM” respectively during the period 2005-2015²⁵. On the other hand, the level of inclusion of issues and values related to global citizenship was reported “LOW” respectively for the same period²⁶.

IV. Specific recommendations

¹⁹ Ibid.

²⁰ Global Education Monitoring Report, Accountability in education: Meeting our Commitments, 2017/8, p376, <http://unesdoc.unesco.org/images/0025/002593/259338e.pdf>

²¹ EFA Global Monitoring Report, Education for All 2000-2015: Achievements and Challenges, p160.

²² Ibid, 277.

²³ Global Education Monitoring Report, Accountability in education: Meeting our Commitments, 2017/8, p355.

²⁴ Global Education Monitoring Report, Education for People and Planet: Creating Sustainable Futures for All, 2016, p310, <http://unesdoc.unesco.org/images/0024/002457/245752e.pdf>

²⁵ Global Education Monitoring Report, Accountability in education: Meeting our Commitments, 2017/8, p371.

²⁶ Ibid.

11. Nicaragua should be strongly encouraged to submit comprehensive national reports for the periodic consultations on UNESCO's education-related standard-setting instruments, and notably regarding the Convention against discrimination in education.
12. Nicaragua should be encouraged to develop its national legal framework in line with the commitments of Sustainable Development Goal (SDG) 4 and Education 2030, and to ensure in legislation the provision of at least 12 years of free, publicly funded, equitable primary and secondary education, of which at least 9 years are compulsory, as well as at least one year of free and compulsory quality pre-primary education.
13. Nicaragua should be encouraged to provide information about the adoption of its new policy framework in the field of education. If such a plan has not been adopted yet, Nicaragua should be strongly encouraged to do so and provide information about it.
14. Nicaragua should be strongly encouraged to adopt comprehensive measures in order to ensure the provision of quality education for all.
15. Nicaragua should be strongly encouraged to develop adequate and comprehensive measures in order to address discrimination against indigenous minorities and people of African descent and improve their access to education in accordance with national legislation.
16. Nicaragua should be encouraged to improve the implementation of national legislation in child labour in order to eliminate the harmful practices that prevent the right to education from being fully realized.
17. Nicaragua should be encouraged to share with UNESCO any relevant information to update its country profile on UNESCO's Observatory on the Right to Education²⁷.

Freedom of opinion and expression

18. The Government is encouraged to live up to the constitutional principles of freedom of expression.
19. The Government is encouraged to assess the appointment system for the broadcast licensing authority to ensure that this body is independent and is not used to suspend media transmissions and censor the content of broadcasting programs.
20. Nicaragua is encouraged to live up to its international commitments and ensure the safety of journalists. The acts of violence committed against journalists violates not only their right to impart opinions and information, but also the right of citizens and society to seek and receive information and ideas.
21. 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 the protection of journalists and freedom of expression.
22. Nicaragua is encouraged to decriminalize defamation and place it under the civil code in accordance with international standards.

²⁷ <http://www.unesco.org/education/edurights/index.php?action=countries&lng=en>

Cultural rights

23. As a State Party to the Convention concerning the Protection of the World Cultural and Natural Heritage (1972)²⁸, the Convention for the Safeguarding of the Intangible Cultural Heritage (2003)²⁹ and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)³⁰, Nicaragua is encouraged to fully implement the relevant provisions that promote access to and participation in cultural heritage and creative expressions and, as such, 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, Nicaragua is encouraged to give due consideration to the participation of communities, practitioners, cultural actors and NGOs from civil society as well as vulnerable groups (minorities, indigenous peoples, migrants, refugees, young people and people with disabilities), and to ensure that equal opportunities are given to women and girls to address gender disparities.

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

24. **Nicaragua** has not submitted its National Report on the implementation of the Recommendation on the Status of Scientific Researchers (1974) for the Second Consultation covering the period from 2013 to 2016 (<http://unesdoc.unesco.org/images/0025/002592/259256e.pdf>). Therefore **Nicaragua** is encouraged to report to UNESCO in future on the implementation of the newly adopted Recommendation on Science and Scientific Researchers (2017), which supersedes the 1974 Recommendation, on any legislative or other steps undertaken by it with the aim to ensure the application of this international standard-setting instrument paying a particular attention to the legal provisions and regulatory frameworks which ensure the implementation of human rights of scientific researchers, as well as human rights obligations related to the Right to Science, the principle of non-discrimination, including urging active promotion of women and girls entering scientific careers, as well as the scientists' rights of autonomy, freedom of research, expression and publication.

²⁸ Periodic Report available at: <http://whc.unesco.org/document/123037>

²⁹ Periodic Report available at: <http://ich.unesco.org/doc/download.php?versionID=37536>

³⁰ Periodic Report not available