

# The Costa Rican System of Education Law



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## 1 Introduction

Costa Rica is proud to have more teachers than soldiers and has always prized education as a pillar of its democracy. At the turn of the twentieth century, Costa Rica was the undisputed pioneer of education in Latin America. Yet despite its significant contributions to economic growth and upward social mobility, the nation's education system seems to have stagnated since the 1980s. In particular, it has proven difficult to implement educational reforms that meet the needs of a changing modern society.

In this chapter, we first review the Costa Rican system of education from a legal perspective. We briefly trace the system's historical origins, its constitutional foundations, and the main legal norms that govern it, as well as describe its organizational structure. We also discuss the ways by which the system is financed and detail its main structural challenges.

In the section that follows, we take an in-depth look at the major legal developments for Costa Rica's education system since its inception. We start by discussing the evolution of the system, exploring its developmental trajectory via three distinct stages that correspond to distinct philosophies of education, identifying a key challenge: namely, that with each transition, existing norms are not reformed wholesale and thus are perpetuated as the ensuing stage unfolds. To interrogate this problem, we proceed by exploring the tensions inherent in, and indeed between,

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two competing pedagogical models, which we term the Social-Democratic Pedagogical Model (SDPM) and the Neoliberal Adjustment Model (NAM) respectively. Particularly, we show that when the latter model came to replace the former, elements of the SPDM still remained; and that, similarly, when moves were made to return to the former, elements of the NAM endured. We then further exemplify the tensions between contrasting models of pedagogy by exploring the phenomenon of second-cycle examinations, which have long been controversial, as well as the centuries-old debate concerning the role of religious instruction in the Costa Rican education system.

In the final section of this chapter, we discuss a selection of emerging issues regarding the future development of education in Costa Rica, namely: the scarcity of resources; the challenges posed by so-called high school dropouts; the disparities between public and private education; the gender gap in educational equality, access, achievement, and progress; and the difficulties to reform the education system because of bureaucratic resistance.

## 2 Nature of the Legal System

### 2.1 *History*

In the wake of the 1948 Civil War, the Constitutional Assembly that drafted Costa Rica's 1949 Constitution, which still endures today, had two main preoccupations: the first was to ensure that, from that moment on, the democratic process would be respected; and the second was to guarantee the permanency of the liberal social security and universal education standards—which truly reflect what would later become known as the second generation of human rights—that were implemented in the 1940's in the case of social security and as far back as 1886 in the case of education (see Castro Vega 2007).

In Costa Rican political culture, these dual preoccupations have always been viewed as interrelated. To safeguard the democratic process, a political system was implemented based on a strict separation of powers (both among the three constitutional powers and within the executive), along with an independent electoral tribunal, progressive human rights standards, and all kinds of measures to prevent power concentration in the hands of one political institution (Petri 2023). In addition, Costa Rica took the unprecedented step in 1948 of abolishing its standing army. Consequently, the country has remained an electoral democracy since 1953 and has not been plagued by military coups, unlike so many others in the region.

The abolition of the military gave rise to a popular foundational myth: that Costa Rica had always been a country of peace and that monies which would otherwise be spent on defense were now to be dedicated to social matters (education, healthcare, and economic development) (Huhn 2008). Former president Oscar Arias famously referred to this myth in his acceptance speech for the Nobel Peace Prize in 1987,

which he received for his contribution to the peace agreements in Central America, stating that: “because our country is a country of teachers, we closed the army camps [...] Our children go with books under their arms, not with rifles on their shoulders.” Across the nation, former army barracks were transformed for use as schools and, as alluded to in our introduction above, Costa Ricans take pride in the fact that their educational workforce outnumbers their military personnel.

Notwithstanding the idealism palpable in this particular vision of their education system,<sup>1</sup> it is undeniable that Costa Rica has achieved significant socio-economic improvements, boasting a human development index superior to 0.8 (UNDP 2022). In terms of education, the country possesses a youth literacy rate of 99%, a primary school completion rate of 105%, and a lower secondary school completion rate of 69.2%. Government expenditure on education has consistently stood at more than one fifth of total expenditure for decades now (World Bank 2022). These are major accomplishments, considering that, in 1883, some 85% of the population was illiterate and primary school enrolment was a mere 43% (Salazar Mora 1980, p. 250).

## 2.2 *Constitutional and Legal Foundations*

The 1949 Constitution, which confirmed the reforms implemented decades previously, issued an unequivocal mandate to the country’s political institutions to promote education; indeed, the chapter on education in the Constitution is fourteen articles long.<sup>2</sup> Besides guaranteeing access to universal and mandatory education (Art. 78), it also created a substantial budgetary commitment (a minimum of 8% of the GDP). The provisions of the Constitution institutionalized education policy in such a way that it remained independent of the government in office; they created four public universities, which would not only have budgetary autonomy and academic freedom but also their own jurisdiction of their campuses, which is an unusually broad interpretation of “university autonomy” (Arts. 84–85); and they also allowed for a non-public (private) education system which would be subject to inspection by the state (Arts. 79–80).

Finally, the Constitution’s preoccupation with equal opportunity can be gleaned from its provisions to support “destitute schoolchildren” (Art. 82) and to promote education for adults (Art. 83) (see Araya Pochet 2005, pp. 197–206). In August 1949, Costa Rica also implemented the so-called “bachillerato por madurez” system, allowing those adults who, for whatever reason, fail to graduate from high school, to pursue a university education, subject to an assessment that takes into consideration their work and life experience.

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<sup>1</sup> There is no empirical evidence that the reduction of military spending leads to the investment in development. There are many countries that have high military spending while at the same time high development levels. Also, many technological innovations are developed in military institutions.

<sup>2</sup> This is much more than in most Western constitutions, some of which do not even mention education.

Although the 1949 Constitution explicitly prioritized the educational system, “a concern for education [is] a true constant in the history of Costa Rica” (Dabène 1992, p. 80). Several public, private, and Church-led education efforts had already been implemented over the course of the nineteenth century, but the 1886 “Fundamental Law of Common Education” was the real game-changer: from that moment on, primary education in Costa Rica was free of charge and mandatory for all. Illiteracy dropped to 50% by 1927 as a result, and government spending on education multiplied sixfold as the next three decades unfolded. By the turn of the twentieth century, Costa Rica had become the unrivaled leader of education in Latin America. Throughout the 1900s, the Costa Rican commitment to education remained paramount and represented a serious contribution towards upward social mobility in the nation.

Finally, we must note that in the constitutional framework exposed above, the Costa Rican education system is regulated by an extensive collection of laws and regulations of which the Education Code (1944, numbering some four hundred and twenty-four pages), the Organic Law of the Ministry of Public Education (1965, fifty pages), and the Basic Education Law (1957, twenty-one pages), are some of the most important. These laws continue to be reviewed and updated frequently.

## 2.3 *Organizational Structure*

The Costa Rican education system, like other Latin American countries, was shaped by the legacy of Spanish colonial rule. Following independence, the nation continued to conform to European education trends and was heavily influenced by both the Enlightenment and the French Revolution (Robles 2017). Currently, the country’s education system follows the classic French-Napoleonic model and is based on four levels of education: pre-school, primary, secondary, and university education (Art. 77 of the Constitution).

Inspired by the humanist ideal, the system is comprehensive. The curriculum at primary and secondary level, which is normally completed in twelve years, offers a wide range of classes that cover arts, sciences, and physical education. No specializations are offered at any level of primary and secondary education. According to the “Consejo Superior de Educación” (Education Counsel) of Costa Rica, pre-schooling in the country focuses on developing children’s interests and potential, in such a way that best matches their emotional, cognitive, expressive, linguistic, and motor skills. Children’s subsequent schooling, or “General Basic Education”, is then divided into three cycles. The first and second cycles correspond broadly to primary school in the USA and the third cycle to middle and high school. During the General Basic Education stages, schooling is organized by subjects; the three cycles, in total, last for nine academic years, with terminal assessments taking place at the end of each cycle. These assessments are graded from 1 to 100, while the minimum pass score varies with each stage. At the middle/high school stage, which we term the third cycle, three pathways are available to students, namely: academic, technical,

and artistic, with the academic pathway lasting two years and the technical pathway three; the minimum pass score at this stage is 70. At the end of their years in General Basic Education, students may then progress to university level, where minimum pass scores and duration of degree programs vary according to the institution and course of study.

In 2018, an important reform has been to lower the mandatory age for educational instruction to four years old. According to Silvia Castro, a leading education expert in the country, this is especially significant in reducing learning delays for children raised in households with low literacy and education levels. According to Castro, lowering the mandatory age for educational instruction further still would make a huge difference (Teletica Radio [2021](#)).

In terms of administration, the Costa Rican system is highly centralized. School boards exist, but these have little influence, and schoolteachers are paid directly by the Ministry of Public Education (MEP), which runs the overall system. With the 1949 Constitution, Public Education was granted its own government department; before, it was part of the Ministry of Finance, Public Education, War and Navy (UNESCO [2006](#)). The MEP divides the country into regions, so as to respond to geographical, cultural and economic differences as well as to the needs of national development; these comprise seven provincial directorates and twenty regional directorates of education, according to decrees no. 23489 and no. 23490 (July 29, 1994). Each regional directorate is subdivided again, into smaller local units called school circuits, which correspond to the educational services run by the MEP. These circuits are overseen by a supervisory director, who is the immediate superior of all the school and college principals operating in the local area.

Despite this centralized system, local government does exercise a limited administrative function. Boards of education and administrative boards exist, which are the responsibility of local authorities. These promote education in their respective regions. Board of education members are appointed by government officials who supervise education in the district; requirements for their appointment and removal are determined centrally. For middle/high school (the “third cycle”), and also for alternative educational institutions, administrative boards are appointed in the same manner as the boards of education; local governments define the rules regarding the appointment of the members of these administrative boards. School boards and parent associations are then designated as support bodies to the educational and administrative boards, respectively; but in many cases, the latter are auxiliary to the former. External public relations are carried out by the boards of education, administrative boards, school boards, and parent-teacher associations, along with a number of other minor administrative functions. Teacher training is centralized, however: the National Center for Didactics (CENADI) is the body of the MEP that was created to provide direct support for teaching and learning, including the collaboration of parents and the wider community. The Research and Improvement Center for Technical Education (CIPET) oversees training and continuing professional development for teachers in service of the MEP.

In terms of financing, the Costa Rican government uses the program budgeting technique to allocate annual resources to public institutions. This allows to distinguish with sufficient clarity the distribution corresponding to each ministerial program, varying according to its objectives and goals. In the case of the MEP, most of the resources allocated to the education sector (state universities and university colleges, among others), are channeled through this budgetary process. The allocation of resources is done in accordance with the laws that stipulate pre-established amounts and percentages; practice indicates that the MEP acts more as a middleman for such resources and funds, since the budgetary requests, monetary amounts, and so forth, pertain to the institutions themselves. Current expenses are the most significant item in the MEP budget, with a constant percentage running at close to 98% of the total. In accordance with the provisions of Article 36 of the Financial Administration Law, the MEP must submit to the Ministry of Finance no later than 1 June of each year the budgetary proposals for the upcoming fiscal year, which must take into consideration the objectives, goals, and monetary ceilings previously established by the treasury. Within the budgets of central government institutions, monies are otherwise allocated to satisfy the various needs of the education system. These funds are used for: maintenance; construction and reconstruction of education infrastructure; purchase of materials, furniture, plant and equipment; support for the school library program; and granting scholarships.

Finally, as far as the legislative framework is concerned, the education system of Costa Rica was first set out in the Fundamental Law of Education, which was approved in 1957, and this regulation continues to provide the backbone of the country's education system today. The Superior Council of Education is the governing body of this system; it has the power to make decisions regarding the national curriculum. Following the Fernandez Act of 2002, however, the education system has been reformed in order to provide equal opportunities for all students, with policies that guarantee the free exchange of special education and compensatory services in the public and private sectors and that reconsider curriculum structure, akin with the various factors affecting the development of the education system more widely. These include the implementation of the behavioral and organizational aspects of the curriculum, the prioritization of results, and the development of a more "socio-critical" approach to education policy.

## **2.4 Challenges**

Notwithstanding its significant achievements, in terms of almost total literacy and primary school enrolment, the quality of the Costa Rican education system is generally considered to have stagnated since the 1980s (Martinez and Loria 2018).

For example, failure rates for university graduates taking the Bar examinations have increased, as too have poor scores of teacher trainees at assessment stage, and the standards for some university programs are quite basic. As a consequence, for the past ten years only 28% of the population aged over twenty-five years have gone on

to secure employment in the services sector of the economy. This percentage is low when compared to the average of 44% for countries belonging to the Organization for Economic Cooperation and Development (OECD), a club which Costa Rica joined in 2021 (Informa-TICO 2019). Costa Rica's relatively low rate of service sector employment is largely attributable to the fact that many young people enter the labor market without having finished high school, while others do not manage to complete their university studies. The growth of university students over the last twenty years, especially at private universities, clearly has not brought about better study and employment opportunities for the majority. Almost two thirds of the 1,341 university programs are concentrated in a few areas of study: education, economic sciences, health sciences, and social sciences. A mere 37% of university education courses currently cover STEM subjects like technology, engineering, or mathematics.

An urgent priority for Costa Rica, then, is to guarantee minimum standards in the university sector, particularly among private providers, according to a 2017 report by the OECD. The same report found that existing legislative proposals would not be sufficient to secure this end, in that they did not propose clear mechanisms to address the many poor-quality unaccredited programs offered by private universities. A vital element for this challenge is the need to obtain better, more substantial data. Reliable performance data sets are not available, because institutions are not presently required to report key institutional/system performance indicators (for example: time to complete degree studies; student retention rates; graduation success rates for low-income students; post-graduation pathways). Specific information, such as that concerning the household income of students, or the number of part-time students, is often unavailable. The relative absence of data regarding university education in Costa Rica is surprising and separates the country not only from OECD member states but moreover from other nations in the region. Chile, Peru, and Colombia have all established increasingly robust, public-facing information systems which help to inform policymakers' decisions, as well as to guide prospective students and their parents.

Among the proposals generated by these reports regarding the advancement of the education system are the following: (a) appoint a minister of education who is or has been an educator; (b) submit the directorships of regional education offices for public tender, so as to ensure recruitment of top candidates for the positions; (c) require teachers to hold an academic degree from accredited universities; (d) monitor the performance, level of knowledge, and continuing professional development of educators; (e) guarantee, at government level, the construction and maintenance of the necessary infrastructure through localized studies, in addition to promoting continuous training for educators which embraces policies of inclusion; and (f) promote comprehensive follow-ups programs for spelling, reading, research, and other matters, without perpetuating the present overreliance on numerical evaluation which leads to impaired or staggered progress rates (OECD 2017).

### 3 Major Legal Developments

#### 3.1 *Phases of the Education System*

According to Toruño (2015), the evolution of the modern Costa Rican public education system can be divided roughly into three phases. Each phase corresponds to a new pedagogical concept and the consequent introduction of new legislation and policies. However, each phase never completely eliminates pre-existing rules and practices, which are thus passed down to the new phases. Where contradictions arise, between the remnants of older visions of education and the newer models, these are often addressed through litigation, rather than through reevaluating and amending previous practices.

The first phase can be identified as “municipal-ecclesiastic.” During this period, education was organized locally under the influence of religious conservatism and was primarily geared towards the needs of an agrarian economy (Molina 2007).

In the late 1800s, this first phase was succeeded by the “centralized-secular” phase, during which a centralized organization was established to teach basic knowledge and skills (namely mathematics and Spanish, to promote social and economic interactions at the time). Notwithstanding its secularizing impulse, the Concordat of 1852 continued to give the Catholic Church a significant share of power over the education system in Costa Rica. As a result, the centralized system was also used to transmit patriarchal-religious values and was implemented chiefly in primary education, mainly in the first, second and third grades (Camacho 2005).

As with elsewhere in Europe and Latin America, the nineteenth century gave rise to a salient opposition of liberal (secular) and conservative (Catholic) views on education. Some analysts have interpreted the role Catholic Church as a hindrance to education (see Dabène 1992; Salazar Mora 1980), pointing to the fact that the Catholic Church called for the boycott of public schools due to the attempts of liberals to secularize education; but at the same, one must not ignore the importance of the numerous educational initiatives that were led by the Church since colonial times. In any event, a consensus was reached between the liberal and conservative factions in 1882 when the Church granted full support for public education, in exchange for the inclusion of mandatory religious education classes in the curriculum (Robles 2017).

The third phase of the education system’s development was that of the establishment of the “university-pedagogical” vision, which started in the 1940s. It was carried out through various reforms that allowed for the implementation of modern educational institutions, such as the University of Costa Rica which was initially organized according to the following law-based schools: the School of Law, the School of Pharmacy, the School of Agriculture, and the School of Fine Arts. From 1942 to 1960, various new schools were also established. In 1973, the National University was established, following by the Distance State University in 1977. October 1942 also saw the founding of the national organization for Costa Rican educators, known as ANDE, which has conferred various benefits upon students and teachers for more than sixty-five years now.



### 3.2 *Competing Pedagogical Models*

From an ideological standpoint, the concept of education in Costa Rica can be divided into two different visions: the Social Democratic model and the Fundamental Law of Education (Dengo 2011). The former is the framework that was approved in 1957; it continues to be used to this day.

During the university-pedagogical phase, or third phase, the so-called Social Democratic Pedagogical Model (SDPM), which had been created in 1948, remained the dominant vision for education in Costa Rica until 1985. The SDPM provided a framework for the development of a society that valued the contribution of each of its citizens (Toruño 2015). The goal of this model was to create a society that was committed to the establishment of a culture of “productive social development”. The development of the SDPM in Costa Rica was informed by the 1949 Constitution and the 1957 Fundamental Law of Education, to which we have alluded previously. Created in the wake of the Civil War, the SDPM emphasized the need to establish a culture that promoted the importance of education, which would help Costa Rica to develop a strong and sustainable relationship with its citizens.

To this end, a key mechanism of the SDPM was the establishment of a collective mentality within society. This mentality, it was theorized, could then be used to legitimize the dominant group through the creation of the new citizen. The concept of productive social development also formed an integral part of the scheme’s wealth distribution policy. It was responsible for ensuring that the country’s citizens received the necessary resources to maintain their level of social development. According to Miranda (2010), education in the SDPM was conceptualized as a political and cultural unit that would form the skeleton of a society which valued every citizen equally but would also develop a qualified reserve labor army. Hence, the SDPM was explicitly linked to the abolition of the army. This is built on the popular belief that the education system was a vital part of the nation’s development (Toruño 2015).

Through this narrative, the public could easily understand the importance of education which, although culturally laudable, would also help to strengthen the political standing of the National Liberation Party, Costa Rica’s dominant political party during the second half of the twentieth century. Indeed, as Dabène has noted, the establishment of the SDPM can also be viewed of an integral part of the National Liberation Party’s strategy to maintain its political dominance in the country at the time (Dabène 1992).

During the 1970s, the development of the SDPM in Costa Rica was affected by various factors that influenced social democracy and education in the country. Budgetary reforms resulted in a real-term reduction in the funds allocated for education and also led to the establishment of a system that allowed the private sector to participate in education (Toruño 2015). Other factors affecting the development of the education system during the 1970s was the increasing number of school days each week and a noticeable lack of proper educational infrastructure. Finally, an important

factor during this decade was the attempt to increase the role of local governments in education administration, as part of a broader policy of decentralization; however, political and social resistance prevented this initiative from being realized.

The Costa Rican education system then underwent further changes in the period from 1978 to 1982, largely due to economic factors, such as the failure of the import substitute model in the 1980s, the drop in the price of agricultural export products, and the increase in interest rates at the international level, all of which caused investment in education to decrease until the 1990s (Molina 2018).

Within this context, in 1986, a new pedagogical perspective emerged: the Neoliberal Adjustment Model (NAM), which reemphasized economic development and increased monetary resources for teaching. Although the NAM did not completely replace the SDPM, it brought about significant changes, which we shall now explore.

In his first presidency (1986–1990), Dr. Óscar Arias Sánchez appointed as Minister for Education the philosopher Francisco Antonio Pacheco. Although Pacheco's administrative work is generally considered to have been outstanding, he did not garner the necessary support to bring the various reforms he envisaged to full fruition. However, he significantly developed contemporary ICT instruction in the country through modifying the "Computer Education Program", which had been created by the previous administration. To achieve this, an agreement was established between the MEP and the Omar Dengo Foundation (FOD), which, it is worth noting, represented a major contribution, since to this day, information computer technology has proven to be an invaluable resource for the education of children and young people in Costa Rica. ICT education, as such, quickly became so prominent in the nation's education system that many state and private universities were offering degree courses in information technology as early as the 1990s.

One of the most striking reforms of the era, which endures today, was the resuscitation of the Baccalaureate, or "bachillerato", which is a set of examinations taken by secondary students wishing to pursue a degree. According to the Organization of Ibero-American States (1997), the return of the Baccalaureate represented a policy stance that viewed assessment "not as an end, but [rather] as a means to reactivate the educational lifeblood of the country, involving students, parents, authorities, and indeed the entire community, to this commitment" (p. 6). The Baccalaureate program was then consolidated in the 1990s, incorporating new curricular approaches.

Despite the efforts of diverse political bodies and economic organs, the NAM of pedagogy ultimately failed to replace the SDMP. However, it succeeded in implementing a different type of education system. Despite its name, educational reforms under the Neoliberal Adjustment Model did not extend to privatizing a large portion of institutions or establishing a curricular system based on conservative currents of opinion, but instead focused on developing education programs that were designed to meet the varying needs of the country's distinct regions.

At this juncture, we must note that the reflections above reveal a number of key tenets underpinning the development of the Costa Rican education system during the years 1950–1980. These include: the concept of universal access to education; the tailoring of study courses to meet the requirements of different local areas; and the implementation of new study and examination programs.

Yet other factors, such as cultural differences and political persuasions, must also be considered. A study of the various writings of Leonardo Garnier during his time as Education Minister (2006–2014), for instance, clearly shows his desire to implement a curriculum that restores some of the key tenets of the SDPM, in opposition to the NAM. Some of the reforms carried out under Garnier's leadership were based on principles of citizenship, aesthetics, and ethics. In elementary school, the curriculum was changed to include topics such as relationships and sexuality. The latter met with considerable controversy, as conservatives rejected it.

In addition to numerous reforms, Garnier also decided to analyze the educational policies, the study of which reveals his attitudes to be at odds with the prevailing educational model at the time. Garnier's columns in *La Nación*, for example, center around the development of new study programs (Toruño 2015). Furthermore, the concept of "education for harmonious coexistence," which was also presented by Garnier, breaks with the traditional conservative vision of education; it focused on adapting education in schools to meet the needs of different regions. He also highlighted the importance of catering to multiple learning styles, which he linked to the development of a better society. The inclusion of such concepts in the education policy framework would eventually allow Costa Rica to return to the SDPM.

Consequently, during these restorative reforms, various changes were implemented at the primary and secondary levels. These included changes to the Spanish language curriculum, the introduction of plastic arts into primary education, and the development of a pluricultural curriculum. Citizenship and social skills were also introduced, with an emphasis on communicating effectively and efficiently, developing a consensus, and making decisions. Such programs also included opportunities to participate in a variety of social and political activities and addressed how to respond to diversity and difference. In addition to these changes, the education system also adopted four pillars for teaching and learning: Know, Enjoy, Express, and Explain. Although an in-depth exploration of these so-called four pillars is not considered relevant for the purposes of this study, they do serve as useful illustrations of the new curriculum and can be used in extra-curricular and citizenship settings, as well as for traditional subjects (Toruño 2015).

Over the past decade, investment has increased for infrastructure projects such as the construction of new schools and the renovation of public facilities like libraries. From a SDPM standpoint, we might therefore deduce that the Costa Rican education system is progressive; but a different analysis, one which considers the remnants of the Neoliberal Adjustment Model reforms that still endure today, would arrive at different conclusions. Our premise, then, is that the decision to restore the SDPM constituted a statement of the hegemonic project of education in Costa Rica, rather than a truly progressive philosophy.

As a final aside, we would note that the process of implementing such a hegemonic project is complex, due to the various actors operating within the relevant domain. These actors include both the power groups that defend the model and the groups that act against it, where the latter include pressure groups, who wish to maintain a certain status quo, and progressive groups, who have an alternative agenda (Toruño 2015).

### 3.3 *High School Protests*

In 2019, the education sector was rocked by Kenneth Sánchez, the controversial leader of MEDSE (Movimiento Estudiantil de Secundaria), a protest group that was behind the historic high school students' strikes and blockades unleashed against the government, which led to the resignation of the minister of education in July of the same year.

Sánchez, an 18-year-old activist, indeed had a remarkable impact; he was able to take advantage of new technology and resources for mobilization in a most efficient way, by filming and disseminating on social media instances of police violence, for example. For the same reasons, young people of Sánchez's generation often attract criticism, and perhaps delegitimization, due to the suspicions, founded or not, of manipulation by political groups. Officially, the student marches were declared as a denunciation of the FARO exam (Fortalecimiento de Aprendizajes para la Renovación de Oportunidades), which they claimed unfairly judged whether a student was qualified to access university study.<sup>3</sup> However, workers then joined the demonstrations; these included taxi and truck drivers. Suspicions of instrumentalization by unions to promote other parallel agendas, soon emerged. The student marches were characterized by police repression, which increased demonstrators' resentment of the then minister of education, Edgar Mora. He resigned from his post in July 2019 (Petri 2020).

Beyond the opposition to the FARO exam, which essentially is a type of baccalaureate exam, one trend in the Costa Rican education system has been the gradual erosion of examinations, inspired by new pedagogical philosophies. Furthermore, it has become increasingly difficult for students to fail a year, as this is considered to be discriminatory. The controversy around second-cycle examinations has led to many strikes since 2018. Shortly after assuming office, president Rodrigo Chaves urged the national Education Council to order the complete elimination of second-cycle examinations, which it did on 9 June 2022.

Notwithstanding the arguably legitimate reasons for these changes, at least according to the insights of some education experts, they have made the Costa Rican education system less competitive internationally, as studies by the OECD indicate (Schleicher 2017). This issue does not only apply to high schools, but also to university education, as is evident when considering the high failure rates of graduated university students in professional exams for lawyers and medical personnel, or the poor grades of teacher training graduates in teachers for assessment (Schleicher 2017).

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<sup>3</sup> MEDSE had other demands as well like ending the dual education project that would allow students to also work as apprentices in private companies, better infrastructure, and the resignation of the minister of education Edgar Mora.

### ***3.4 Religious Education and Religious Accommodation***

The place of religious instruction continues to be controversial. Because Costa Rica is officially a Catholic state, there are concerns that the education system is subordinate to the Catholic Church. In 1994, the UN Human Rights Committee raised this question in its annual report, alleging the Teaching Career Law grants the National Episcopal Conference undue influence over public religious instruction (HRC 1994; Scolnicov 2011, p. 69). Although religious education remains mandatory in public schools, it was decoupled from the influence of the Catholic Church in 2010 when a ruling by the Constitutional Chamber ordered that the Church should no longer have the authority to approve the candidacies of 1400 teachers of religious studies. It also ordered that alternative religion classes should be offered to cater to non-Catholic students (Murillo 2019). Both rulings have not fully materialized, however, mainly because of a lack of qualified teachers (Cerdas 2021).

Further examples also confirm that the influence of the Catholic Church is no longer quite so prominent. In 2018, the Ministry of Education adopted a sexual education curriculum, ignoring the loud protests of the Catholic bishops and other conservative religious groups (ACI Prensa 2018).

At times, issues related to the accommodation of the beliefs of religious minorities arise. There have been several cases of restrictions on the observance of religious law related to the refusal of a school to allow a Seventh-Day Adventist student to reschedule an exam originally scheduled for a Saturday in 2010 and the denial of a high school director of a request for leave to celebrate a Jewish holiday in 2012. More recent anti-Semitic incidents in public schools were quickly addressed (Radio Jai 2017; Sala Constitucional 2017). Such issues, although they are often corrected after talks between religious leaders and public officials, do reveal a worrying lack of religious literacy among education officials, in our opinion, however (Petri 2022).

## **4 Outlook of Future Developments and Emerging Issues in Education Law**

### ***4.1 Resource Scarcity***

As explored in the previous section, the education system has undergone multiple reforms that are aimed at improving the quality of teaching and learning. Although these changes have succeeded in ameliorating some aspects of the system, a number of trends remain which challenge its future evolution.

One key factor is that, as the private sector has repeatedly complained, the education system would seem to fail to deliver the workforce it needs. Private sector

employers, according to an OECD report, are often forced to retrain the graduates they recruit (OECD 2017). Promising initiatives, such as financial education, promoted by the country's banks and financial institutions as part of their corporate social responsibility, have only been introduced as pilot schemes in a handful of schools (OECD 2017).

An important challenge for the nation's education system is that of consolidating a high-quality teaching profession to address the graduate skill gaps. In Costa Rica, the gap between the theory and practice of education is stark. According to studies, over 40% of teachers of English and 30% of mathematics teachers do not know how to teach their curriculum (OECD 2017). Despite the improvement in teacher training courses, teachers still receive little feedback and support regarding their pedagogical practice and subject knowledge. Currently, an evaluation system is used as a tool for ensuring the continuing professional development of teachers, but this has been accused of flimsiness and of lacking a basic understanding of the day-to-day challenges for teachers. A further point of note is that only nineteen of the existing two hundred and sixty teacher training programs are actually accredited (OECD 2017), which means that the vast majority of so-called qualified teachers are unprepared to deliver the curriculum.

Teacher numbers are also an issue, especially in rural areas. Raising salaries has been one attempt to address the shortfall (Martinez and Loria 2018). Salaries constitute the main item of education expenditure, with a growing trend at the per capita level (Martinez and Loria 2018). Notwithstanding the resources allocated to the sector, and in spite of the reforms that have been carried out, the country does not have an evaluation system to link salaries to student results or to quality standards for teaching staff, which has been denounced by the periodic *Estado de la Educación* (Martinez 2012) think tank reports. In the same vein, such reports identified a lack of selectivity in MEP teacher hiring processes; the Ministry's recruitment system dates to 1970 (Martinez 2012) and proposes that applicants have a university degree, accrue years of experience, and undertake training courses. However, currently the nation's teachers require other skills, in addition to certification.

## **4.2 School Dropouts and Equality of Access**

As alluded to in an earlier section of this chapter, Costa Rica was among the first countries in the region to send students to primary school. Today, almost all students go on to make the transition to secondary school; the challenge, then, is in ensuring that all students encounter a positive learning environment and are equipped with the necessary skills to succeed in their studies, so that they go on to graduate with a complete General Basic Education (high school). According to the OECD, around 30% of students leave high school by age 15 (OECD 2017) and this same 30% tends to lack basic mathematical, literacy and science skills. Sadly, during the first stage of the COVID-19 pandemic, it was reported that some eight thousand primary school students left the education system and did not return (Castro 2021a, b).

So-called “high school dropouts” are a major issue. Several social groups have succeeded in raising awareness about this issue (Infobae 2011), but so far none of the reforms they advocate have been implemented. “Dropouts” choose to leave education to work, so that they can provide for their family. To date, many programs have sought to counteract the phenomenon; for example, presidents Óscar Arias and Laura Chinchilla proposed in 2006 and 2010 respectively a plan called “Avancemos”, which focused on scholarships and monies for resources like school supplies, clothing, and food (Infobae 2011). This plan helped to reduce dropout rates by 2% over three years but still did not solve the issue, which remains somewhat intractable (Infobae 2011).

To palliate the ongoing problem of school dropouts and equality of access to education, Costa Rica has introduced a new economic growth strategy that explicitly focuses on improving the quality of teaching and learning to promote upward social mobility. It sets targets for higher levels of performance and achievement by the country’s teachers and schools respectively. This is supported by a strong central government strategy that aims to improve the quality of the education system overall.

Between 2018 and 2021, the education system was paralyzed for long periods of time; important strikes occurred in 2018, followed by the MEDSE strikes in 2019, and then the COVID19 lockdowns and school closures in 2020 and 2021. The latter disproportionately affected children from rural and poorer areas, who did not have access to computers or internet connections.

### ***4.3 The Divide Between Public and Private Education***

The divide between public and private education is also growing, the latter being preferred by the social classes that are economically better-off (SeEVERS 2014). Overall, private schools tend to have a better reputation than public schools, because they are perceived to have higher quality educational resources and teaching staff. This situation has created an intense debate about whether students who attend private schools receive a better education (Gimenez and Castro 2017). It is important to point out, however, that, the differences between public and private schools are not as important as they seem: not all private education institutions have more resources or better teachers than public institutions. The main difference lies in the fact that students of public and private institutions have very different socioeconomic characteristics, leading to a selection bias (Gimenez and Castro 2017). As a result, on average, students from private schools belong to families with more economic resources and higher educational levels. For this reason, the social and cultural capital of the family, available educational facilities in the home, and the external effects associated with having students belonging to these environments as classmates are likely to be the real explanations of the better results of students from private schools (Gimenez and Castro 2017).

The situation is radically different for university education. More than 58% of the population considers that public universities offer better education than private universities. Less than a quarter (24%) prefers private universities. In particular,



the University of Costa Rica, a public university is considered the best a superior university and has more students in the country and the candidates for jobs that have a degree from this university are preferred by most employers (Denton 2014).

It is important to note that different mechanisms and institutions regulate the private education sector, whereby individual institutions have a high degree of self-regulatory freedom. Public resources are still involved, however, since private universities receive tax exemptions from the Costa Rican state and pay a reduced value added tax rate of 2%, instead of the 13% that corresponds, on average, to other settings (Blanco and Chacon 2020).

Finally, access to private schooling remains unequal and its results correspond to the economic differences of the families concerned. Most students who complete their studies in private educational institutions go on to gain better jobs, nationally and internationally, which allows them to send their own children to these same schools, perpetuating the self-selectivity and economic privilege inherent in the private school system (Blanco and Chacon 2020).

#### ***4.4 Gender Disparities***

In Costa Rican society, gender disparities persist; but in terms of educational achievements, statistics are more favorable for girls than for boys. For example, the lower secondary completion rate is 71% for females, against 67.5% for males (World Bank 2022). This gap widens even more in the case of university education.

Although these figures suggest that girls overwhelmingly outperform boys academically, the Ministry of Public Education continues to implement several initiatives to address “the gender achievement gap.” It could be argued that these initiatives have been so successful that they are no longer necessary; or perhaps they should focus more on keeping boys from dropping out of school instead.

Various amendments to the official curriculum have been suggested; however, these changes have not yet been realized, as there are still various issues that first need to be resolved (Vargas 2021). Gender equality in education is not a new concern in Costa Rica, however, since proposals regarding the issue first date back to the 1980s. Despite the various initiatives that have been launched to improve the status of women in the country, the progress that has been made has arguably not been widely felt.

Until 2014, official policies on gender equality in education were established by the Ministry of Public Education. This reflects how far the country has gone in addressing this matter, but it suggests, we would hold, that the Ministry does not have a strong stance on the issue of gender equality in education, since issues remain prevalent on the ground (Vargas 2021). In 2000, the Ministry of Public Education and the International Network of Women in Education (INAMU) collaborated to create a strategic plan that aimed to establish a culture of gender equity in the country’s education system; the plan was then consolidated in 2001 (Araya Umaña 2008). Actions were designed to help to create the necessary conditions for the



advancement of gender equality through the country's education system. After a long, protracted struggle, the Commission for the Development of Gender Equity in Education succeeded in securing legislation to implement sex and relationship education programs throughout Costa Rica. Furthermore, from 2012 to 2013, a committee known as "Schools for Change" was established, which explored the role of gender disparity in early childhood education.

In 2014, the MEP established a number of initiatives aimed at reinforcing gender equality in Costa Rica (Vargas 2021). These included promoting gender equality, educating from a gender-informed perspective, explicitly valuing and practicing non-discrimination, and using a gender-conscious approach in structural and administration matters. The introduction of these equality-based educational policies has rightly been regarded as a key component in the country's efforts to improve the lives of Costa Rican women.

#### ***4.5 Bureaucratic Resistance to Reform***

Because of the significant levels of bureaucratic resistance, political and legal reforms in Costa Rica tend to take a lot of time to materialize. In the education sector specifically, bureaucratic resistance to reform is particularly strong and has slowed down many reform processes, to a large degree because of the presence of very powerful teachers' unions, which have been closely connected to the National Liberation Party which has been the dominant political party since the 1948 Revolution.

For example, the bureaucratic processes within the Ministry of Public Education were affecting the selection of beneficiaries of computers and tablets with Internet access for students who do not have technological resources to receive virtual classes. In this sense, the suspension of the school year for more than a month and a half would not be used to improve the connectivity of students in public schools and colleges through the Connected Homes Plan, financed with resources from the National Telecommunications Fund (Fonatel). And it is that the MEP does not finish defining the students who would receive the resources, since it has not been able to access the database of the Mixed Institute of Social Assistance (IMAS) to identify the possible beneficiaries of a computer and a connection to the Internet (Castro 2021a, b). Due to these problems, there were frequent strikes by schoolteachers.

A frequently mentioned complaint is the large amount of paperwork education staff need to deliver around the evaluations of students, meetings with parents and other teachers, did active units, self-evaluations, individual student reports and additional administrative paperwork due to the lack of personnel. These problems are applicable to the public administration system more broadly, but are particularly acute within the education system.

In fact, Costa Rica, unlike other OECD countries, lacks a public authority leader with clear responsibility for the education sector public superior and the ability to plan strategically. Of the existing institutions, the National Council of Rectors (CONARE) operates solely as an instrument for the self-government of public universities, while

the National Council of Private Higher University Education (CONESUP) deals exclusively with private universities (Schleicher 2017). There is no entity that has responsibility for the sector as a whole. There also is no platform where the actors can meet to ensure coherence between programs and institutions in terms of objectives, information or requirements of system-wide monitoring—upon which to allocate significantly public funds (Schleicher 2017). An implication of the former is that it is difficult to develop and implement new policies on topics such as student finance, the quality of university education, or to cover the needs of an economy that is changing quickly. As a result, a solid basis for the development of a competitive higher education sector is absent.

## 5 Conclusion

Despite the various education initiatives introduced over the past decade, it is concerning that the education system in Costa Rica remains regulated by a law that has not been updated since 1957. The Fundamental Law of Education, which was issued some sixty-five years ago, does not respond adequately to the needs and requirements of modern society. This is because the regulatory body established by the 1957 law has similarly undergone no reform since its inception.

In this way, Costa Rica continues to elaborate its educational goals and systemic reforms according to a framework for education that was conceptualized decades previously, when the reality of Costa Rica and the world at large differed greatly from our current context. There is no doubt that, at the time of its formulation, this legislation provided the necessary foundations for the Costa Rican system, underpinned by a Humanist philosophy of education. However, time passes; and changing times bring changing educational needs. Therefore, we would hold that Costa Rica should not base its current education system on the hopes of the past, but rather on a vision for the future, which should be socially co-constructed. In this respect, we would consider it imperative that society and the legislator collaborate in defining a new framework for education, which must gather in a single normative compendium the legal advances that have existed until now as decrees or regulations. This will reduce normative dispersion and will facilitate the incorporation of innovative approaches to education in Costa Rica.

The Costa Rican education system has undergone many changes. At the beginning of this chapter, we discussed the different models that have been adapted in the last centuries and how they have evolved into what they are today and what challenges the result of those models have brought to the educational system. We conclude that the system has always been focused on benefiting the population and targeting high standards for helping the economy and society. For example, back in the 1940s or 1950s, when the first universities were founded and the modern education legislation was adopted, the objective was to educate the population in order to provide opportunities to everybody. In the 1980s and 1990s, under a different economic development model, high school education was reoriented to support the needs of the economy.

Then in the 2000s and again today, several attempts were made to change the evaluation system and make it more accessible. The education system has always tried to adapt to the circumstances and the needs of the people, whether the needs of the labor markers or the imperative of promoting literacy. At the same time, the necessary reforms have only been implemented slowly.

The system is still evolving and needs work. To this day, Costa Rica still has one of the most successful education systems in Latin America. It has been proven from time to time that it has the capacity to show good results and prepare students for the labor market. It provides benefits to the whole population. Costa Rica continues to dedicate 7.6% of the country's Gross Domestic Product (GDP), in contrast to the average of the OECD countries of 5% (Barquero 2017).

At the same time, there are many inconsistencies in the system, like the accessibility gaps, gender gaps and administrative obstacles. Even though education is a long-term benefit to the country, it is important to provide opportunities for people to access education. For Costa Rica it is imperative that this happens, as it does not have an army. Indeed, education can bring about huge improvements to many areas of Costa Rica's international relations. These are aspects that could improve the results of education by miles, but the bureaucracy of the country still makes it hard to fix. As discussed, the education models from the 1940's or 1980's have proven difficult to reform. Like baccalaureate exams, old study plans for technical high schools, gender and class gaps, are still on the table. There are many opportunities for improvement.

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