



*Time, Power, and Resistances in Latin America:
Narratives, Democracy, and Global Reconfigurations
(English Version)*

ISBN: 978-9915-704-40-1

DOI: 10.62486/978-9915-704-40-1.Ch20

Pages: 182-191

©2026 The authors. This is an open access chapter distributed under the terms of the Creative Commons Attribution (CC BY) 4.0 License.

The right to higher education in Mexico: between optimistic norms, complex policies and adverse realities

El derecho a la educación superior en México: entre normas optimistas, políticas complejas y realidades adversas

Mara Karina Mendoza Hernández¹  

¹Universidad Veracruzana, Licenciada en Derecho y Maestra en Derechos Humanos y Justicia Constitucional. México.

Corresponding author: Mara Karina Mendoza Hernández 

ABSTRACT

This text is the result of a documentary research study with a qualitative approach and explanatory scope. It starts from the premise that, since higher education was recognized as a human right in international human rights instruments in the 20th century and, from 2019, in the federal constitution, it has become even more evident that, in order for all people who include higher education in their life plans to be able to enjoy this right, more is required than its mere recognition at the constitutional and conventional level. Although national and international norms and their standards for the full guarantee of the human right to higher education are ambitious in establishing that the essential elements of availability, accessibility, acceptability, and adaptability must be fulfilled, and although, as a result, a series of complex policies have been designed and implemented with the aim of achieving universal coverage with equity and excellence, all this seems insufficient in light of the realities of one of the most unequal regions in the world. This paper offers an assessment of some of the regulatory and public policy measures on higher education that have been developed in Mexico since 2019, in relation to the most persistent social problems in the lives of those who aspire to higher education, such as poverty, inequality, and violence, in order to identify areas of opportunity from a human rights and intersectional perspective.

Keywords: Human Right to Higher Education; Higher Education; Human Rights.

RESUMEN

El presente texto es resultado de una investigación de tipo documental, enfoque cualitativo y alcance explicativo, que parte de la premisa que desde el reconocimiento de la educación superior como derecho humano durante el siglo XX en instrumentos internacionales de derechos humanos y a partir del 2019 en la constitución federal, se ha hecho aún más evidente que para lograr que todas las personas que contemplan los estudios de nivel superior en su plan de vida tengan la posibilidad de gozar de tal derecho, se requiere más que su reconocimiento en rango constitucional y convencional. Aunque las normas nacionales e internacionales y sus estándares para la garantía plena del derecho humano a la educación superior son ambiciosos al indicar que se debe cumplir con los elementos esenciales de disponibilidad, accesibilidad, aceptabilidad y adaptabilidad, y como resultado se han generado y puesto en marcha una serie de políticas complejas que tienen el objetivo de lograr la cobertura universal con equidad y excelencia; todo ello parece insuficiente frente a las realidades existentes en una de las regiones más

desiguales del mundo. En este documento se realiza un balance entre algunos de los aspectos normativos y de política pública en materia de educación superior que se han generado en México desde 2019 y los problemas sociales más persistentes en las vidas de quienes aspiran a la educación superior como lo son la pobreza, la desigualdad y la violencia; a fin de identificar áreas de oportunidad desde la perspectiva de derechos humanos e interseccional.

Palabras clave: Derecho Humano A La Educación Superior; Educación Superior; Derechos Humanos.

INTRODUCTION

The recognition of higher education as a human right entails various legal implications, imposing general and specific obligations on the Mexican State to ensure its full exercise in accordance with national and international standards in this area. In this sense, higher education transcends its status as a public service to become an enforceable right, whose fulfillment obligates the State to action in the regulatory, administrative, and budgetary spheres.

The purpose of this text is to examine the content and scope of the human right to higher education based on an analysis of the international instruments that recognize it within the framework of the Universal System and the Inter-American System of Human Rights, as well as its development in the Mexican legal system. It also explains how this recognition was materialized in the National Development Plan 2025-2030 and analyzes the increase in enrollment as the main objective. Finally, it identifies the main challenges facing the Mexican State in guaranteeing excellent, inclusive, and equitable higher education, particularly in the face of structural problems such as inequality, violence, and poverty, which directly affect the effectiveness of this right.

The normative recognition of the human right to higher education in Mexico

Higher education is a human right, as it was accepted as such when it was integrated as a level of education guaranteed by the right to education” (Jongitud, 2017, p. 48). This statement has several legal implications, including the general and specific obligations that recognition of this right imposes on the Mexican State. Below, we will review the international instruments of the Universal Human Rights System (UHRS) and the Inter-American Human Rights System (IAHRS) that recognize this human right.

In the UHRS, the human right to higher education is recognized in three highly relevant normative documents: the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and General Comment No. 13 of the Committee on Economic, Social and Cultural Rights (CESCR).

Article 26 of the UDHR recognizes the right of everyone to education, specifying that at least elementary education should be free and compulsory. Regarding higher education, the United Nations establishes that “technical and professional education shall be made generally available; higher education shall be equally accessible to all based on merit” (United Nations, 1948, p. 26).

Article 13(c) of the ICESCR provides that “Higher education shall be made equally accessible to all, based on individual capacity, by every appropriate means, and in particular by the progressive introduction of free education” (UN, 1966, p. 13).

Finally, General Comment No. 13 on the Right to Education issued by the CESCR establishes that “Higher education comprises the elements of availability, accessibility, acceptability, and adaptability, which are common to education in all its forms and at all levels” (CESCR, 1999, p. 6), which will be developed further below.

As for the inter-American human rights system, it recognizes the human right to higher education in three of its most important instruments: the Charter of the Organization of American States, the American Convention on Human Rights (ACHR), and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights, also known as the Protocol of San Salvador.

Article 47 of the Charter of the Organization of American States, found in Chapter VII entitled Integral Development, provides that “Member states shall give primary importance in their development plans to the promotion of education, science, technology, and culture, oriented toward the integral improvement of the human person and as a foundation for democracy, social justice, and progress.” (Organization of American States [OAS], 1948, 47).

Article 26 of the ACHR, relating to the progressive development of economic, social, and cultural rights, establishes the commitment of States to adopt measures at the domestic level and even through international cooperation, especially of an economic and technical nature, “to progressively achieve the full effectiveness of the rights derived from the economic, social, and educational, scientific, and cultural norms contained in the Charter of the Organization of American States...” (OAS, 1978, 26).

Article 13 of the Protocol of San Salvador states that “higher education should be made equally accessible to all, based on each individual’s ability, by whatever means are appropriate, and in particular through the progressive implementation of free education” (OAS, 1988, p. 13).

In the area of domestic law, Article 3 of the Political Constitution of the United Mexican States establishes that higher education shall be compulsory in accordance with Section X, which was added in 2019 and specifies that the State is responsible for ensuring compulsory higher education and that federal and local authorities “shall establish policies to promote inclusion, retention, and continuity, in accordance with the terms established by law. Likewise, they shall provide means of access to this type of education for persons who meet the requirements established by public institutions” (Official Gazette of the Federation [DOF], 1947, 3).

In order to meet the enormous challenge posed by the above mandate, in 2021, the General Law on Higher Education (LGES) was published in the DOF, which, in its Article 1, specifies that its objectives are as follows:

- I. To establish the basis for fulfilling the State’s obligation to guarantee the exercise of the right to higher education;
- II. To contribute to the social, cultural, scientific, technological, humanistic, productive, and economic development of the country through the training of creative, innovative, and entrepreneurial individuals with a high level of social commitment who put their knowledge at the service of the nation and society;
- III. To distribute the social educational function of higher education among the Federation, the states, and the municipalities;
- IV. Establish coordination, promotion, linkage, social participation, evaluation, and continuous improvement of higher education in the country;

- V. Guide the criteria for the development of public policies on higher education with a vision of the State;
- VI. Establish criteria for the financing of public higher education services; and
- VII. Regulate the participation of the public, social, and private sectors in higher education (DOF, 2019, p. 1).

This law establishes general provisions on the right to higher education; the criteria, purposes, and policies in this area; the levels, modalities, and options of this level of education; higher education in the National Education System; the actions, concurrence, and powers of the State; coordination, planning, and evaluation in this area; the financing of higher education; and matters relating to private entities that provide higher education.

The foregoing outlines the regulatory framework that recognizes the human right to higher education and allows for determining its content and scope in light of the corresponding general and applicable principles.

Public policies on higher education in the 2024-2030 six-year term

The regulations that recognize and protect the human right to higher education impose a series of general obligations on the State, to be fulfilled in accordance with the principles of universality, interdependence, indivisibility, and progressiveness. Each of these obligations and principles involves implementing different actions and omissions, which together aim to make this right effective.

The obligation to promote involves raising awareness, disseminating information, and providing training on the human right to higher education to facilitate understanding of this right and to generate changes in public consciousness that enable identification of its content and scope in accordance with applicable regulations.

The obligation to respect is negative in nature, since, rather than requiring action on the part of the State, it mandates that the State refrain from interfering with the enjoyment of the human right to higher education, as it would do, for example, if it established discriminatory criteria that prevented one or more groups of people from accessing HEIs.

The obligation to protect the right to higher education “involves the application of mechanisms that are not only reactive to violations, but also preventive in nature” (Olvera, 2019, p. 14).

Finally, the obligation to guarantee is the most complex of all because it imposes on the state the duty to undertake all necessary actions and measures to make this human right possible, through the essential elements of availability, accessibility, acceptability, and adaptability (ICESCR, 1999, p. 3).

The essential element of availability implies that states must create and promote the creation of HEIs and that these must have all the elements and inputs necessary to function properly, such as facilities, trained and well-paid teachers, libraries, laboratories, computer centers, sports facilities, and everything else that is necessary according to each HEI.

Accessibility must be realized in different aspects: non-discrimination, material, and economic. The first concerns States and HEIs ensuring they eliminate any obstacle that could give rise to discrimination of any kind. Material accessibility refers to the fact that available

HEIs must be geographically accessible, and economic accessibility refers to the fact that public education services must be free or at least affordable for all.

The element of acceptability requires that the form and content of the educational services offered be culturally and scientifically appropriate. Finally, adaptability means educational services must be flexible to respond to the contexts in which they are provided.

In order to comply with the aforementioned obligations, it is necessary to implement public policies, understood as “the set of objectives, decisions, and actions carried out by a government to solve the problems that, at a given moment, citizens and the government itself consider to be priorities” (Tamayo, 1997, p. 281). In this case, all those that the State considers necessary to guarantee the human right to higher education, in accordance with the principles set out above.

Thus, “the challenges of education in the 21st century have required federal public administrations to rethink new strategies that allow for the design of public policies appropriate to the local and international context...” (Álvarez et al., 2019, p. 478), in order to comply with standards in this area.

Article 10 of the LGES establishes a list of 29 sections with the criteria on which the development of higher education policies will be based, including the continuous improvement of higher education for excellence, relevance, and innovation; increasing opportunities and possibilities for access to higher education; a focus on social inclusion; links between educational authorities and higher education institutions with various social sectors and the world of work; and the promotion of academic integrity and honesty... (DOF, 2021, 10).

In this vein, the National Development Plan (PND) is “the guide for the objectives and actions of the Mexican government in the coming years” (PND, 2025, p. 9) and, according to this, the objectives set out “consist of consolidating the transformation of the country under a development model based on well-being, social justice, and sustainability” (PND, 2025, p. 9).

The PND recognizes the importance of higher education for national development, specifically stating that “science, technology, and higher education will be levers for industrial development and the reconfiguration of our production chains” (DOF, 2025, p. 16) and that “it is a priority to promote policies that improve the transition between educational levels, retention in upper secondary education, increase spaces in higher education, and the transition of young people to the labor market (DOF, 2025, p. 27).”

According to the PND, the national project led by the President of is based on the Hundred Government Commitments for the period 2025-2030, which are grouped into 14 sections and form the basis for the development of the PND itself (DOF, 2025, p. 17).

Commitment number 32 is to create 300,000 new places for higher education. This challenge is extremely complex, since, as stated above, it is not enough to create new HEIs or increase enrollment; rather, it is necessary to create the conditions for students to receive education in accordance with standards in the field of the right to education, that is, education of excellence.

This is because, based on applicable national and international regulations on higher education, the State must assume that “all higher education institutions, regardless of their

legal status, the subsystem to which they belong, and the region of the country where they are located, must guarantee an education of excellence” (Hernández et al., 2023, p. 22).

This is the most complex objective of current public policies on higher education: to increase enrollment in accordance with the standards of excellence set by the relevant regulations.

The realities that impose themselves on the exercise of the human right to higher education in Mexico

In countries such as Mexico, higher education is considered by many to be an opportunity to improve living conditions, especially for those belonging to historically and systematically vulnerable groups (Mendoza, 2024, p. 36). However, higher education will only be able to fulfill this aspiration to the extent that it meets standards of excellence in the broadest sense of the word and counters, or at least addresses, issues that affect its contexts and the realities of its students, such as inequality, violence, and poverty.

It is clear that “access to higher education depends on several factors endogenous and exogenous to the household” (Marina et al., 2018, p. 562), the truth is that, regardless of the origin of these factors, the State has an obligation to take the necessary measures to combat them, since otherwise the exercise of the right to higher education will be affected by the failure to comply with the essential element of accessibility that is indispensable to guarantee it.

However, “education for all should not be understood solely as an accessible goal in quantitative terms, but as a process that must also be inclusive, equitable, and free of biases that reinforce inequality” (Barrón, 2025, p. 84), since the goal is not to increase enrollment per se, but rather to ensure that all those who have made higher education part of their life plan have the opportunity to access it and, at the same time, that the education they receive is of excellence so that it truly constitutes a possibility to improve their living conditions by providing them with what they need to develop the skills that will enable them to enter the labor market successfully.

Another factor that has extremely harmful effects on access to higher education is violence, since it “not only affects transportation to universities, but also creates an atmosphere of demotivation and stress that negatively impacts students’ academic performance” (Barrón, 2025, p. 92).

In addition to violence, another reality that affects access to and enjoyment of the human right to higher education is socioeconomic conditions, which “are fundamental in determining the material possibilities for continuing one’s studies” (Pérez et al., 2024, p. 51). Therefore, states must ensure that students’ economic conditions do not undermine their ability to enter and complete higher education.

In addition to the measures that States must take, “HEIs must strengthen their role in serving society, and more specifically their activities aimed at eradicating poverty...” (ANUIES, 2024, p. 79), both the poverty that prevents their students from completing their studies and the poverty that persists in the societies that host them.

Addressing the issues that hinder access to and retention in HEIs, such as inequality, violence, and poverty, will determine the effectiveness or violation of the human right to higher

education and, as López states, will reinforce “the ambivalence of education: as a reproducer of inequalities and a channel for social mobility” (López, 2019, p. 175).

CONCLUSIONS

The recognition of higher education as a human right, both internationally and nationally, represents a highly significant regulatory achievement that imposes on the Mexican State the unavoidable obligation to guarantee its effective exercise. This mandate is not limited to the mere creation of institutions or the expansion of enrollment. However, it requires full compliance with the essential elements of availability, accessibility, acceptability, and adaptability, under conditions of equity and with a human rights approach.

A review of the legal framework shows that Mexico has a robust regulatory framework for protecting this right; however, there remain substantial gaps between the law, public policies, and students’ realities. Public policies on higher education show progress in formulating objectives to increase enrollment. However, the effectiveness of these policies will depend on the allocation of sufficient resources and the implementation of substantive actions to ensure excellence in higher education.

In Mexico, factors such as inequality, violence, and poverty continue to be decisive obstacles to access, retention, and completion of higher education. Consequently, full compliance with the human right to higher education requires not only regulatory and administrative measures, but also a profound transformation of the social and economic policies that affect its exercise.

In short, the challenge for the Mexican State is not only to recognize higher education as a right formally, but also to ensure its effective realization through comprehensive, sustainable, and evaluable public policies that make inclusive, equitable, and excellent higher education possible, in accordance with national and international standards in this area.

BIBLIOGRAPHICAL REFERENCES

- Álvarez Diez, R. C., Vega Esparza, R. M., Llamas Félix, B. I., & Villegas Santillán, M. T. (2020). Acceso a educación superior como derecho humano fundamental: México 2010-2016. *Revista Venezolana de Gerencia*, 24(2), 474-487. Disponible en: <https://www.redalyc.org/journal/290/29063446025/29063446025.pdf>
- Asociación Nacional de Universidades e Instituciones de Educación Superior (ANUIES). (2018). *Visión y acción 2030. Propuesta de la ANUIES para renovar la educación superior en México*. México: ANUIES. Disponible en: https://www.anui.es.mx/media/docs/avisos/pdf/VISION_Y_ACCION_2030.pdf
- Barrón López, T. (2025). Educación para todos o un sesgo más para aumentar la desigualdad. *Revista Universidad Digital de Ciencias Sociales*, 16(31), 83-95. Disponible en: https://virtual.cuautitlan.unam.mx/rudics/wp-content/uploads/2025/08/RUDICS_31_Educacion_Superior_para_todos.pdf
- Comité de Derechos Económicos, Sociales y Culturales (CDESC). (1999). *Observación General n° 13: Derecho a la Educación*. Disponible en: <https://docs.un.org/es/E/C.12/1999/10>
- Diario Oficial de la Federación (DOF). (1947). *Constitución Política de los Estados Unidos Mexicanos*. México: DOF. Disponible en: <https://www.diputados.gob.mx/LeyesBiblio/>

pdf/CPEUM.pdf

Diario Oficial de la Federación (DOF). (2019). *Ley General de Educación Superior*. México: DOF. Disponible en: https://www.diputados.gob.mx/LeyesBiblio/pdf/LGES_200421.pdf

Diario Oficial de la Federación (DOF). (2025). *Plan Nacional de Desarrollo 2025-2030*. México: DOF. Disponible en: <https://www.dof.gob.mx/2025/PRESREP/PND%202025-2030.pdf>

Hernández Santiago, P., & Hernández Ortiz, L. A. (2023). Estado actual de la calidad de la educación superior en México. *Revista de la Educación Superior*, 52(207), 1-30. Disponible en: <https://www.scielo.org.mx/pdf/resu/v52n207/0185-2760-resu-52-207-00001.pdf>

Jongitud Zamora, J. C. (2017). El derecho humano a la educación superior en México. *Revista de la Educación Superior*, 46(182), 45-56. Disponible en: https://www.scielo.org.mx/scielo.php?script=sci_arttext&pid=S0185-27602017000200045

López Ramírez, M. (2019). La desigualdad en educación superior en México a través del estudio de las trayectorias escolares. *Revista CoPaLa*, (7), 175-187. Disponible en: <https://www.redalyc.org/pdf/6681/668170994011.pdf>

Marina Clemente, J. A., Gerónimo Antonio, V. M., & Pérez Abarca, J. M. (2018). Efectos de la pobreza y de los factores sociodemográficos en la educación superior: un modelo Probit aplicado a México. *Nova Scientia*, 10(20), 539-568. Disponible en: <https://www.scielo.org.mx/pdf/ns/v10n20/2007-0705-ns-10-20-539.pdf>

Mendoza Hernández, M. K. (2024). Afrodescendientes en México: la compleja interdependencia entre sus derechos humanos a la igualdad y no discriminación y a la educación superior. En R. M. Cuéllar Gutiérrez (Ed.), *Derecho a la educación*. México: FONEIA. Disponible en: <https://www.foneia.org/omp/index.php/foneia/catalog/view/derechoedu/deredul/549>

Olvera García, J. (2019). *Manual para fortalecer la igualdad y erradicar la violencia de género*. Comisión de Derechos Humanos del Estado de México. Disponible en: <https://biblio.juridicas.unam.mx/bjv/detalle-libro/5930>

Organización de las Naciones Unidas (ONU). (1948). *Declaración Universal de los Derechos Humanos*. Disponible en: <https://www.un.org/es/about-us/universal-declaration-of-human-rights>

Organización de las Naciones Unidas (ONU). (1966). *Pacto Internacional de Derechos Económicos, Sociales y Culturales*. Disponible en: <https://www.ohchr.org/es/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>

Organización de los Estados Americanos (OEA). (1948). *Carta de la Organización de los Estados Americanos*. Disponible en: <https://www.cidh.oas.org/basicos/carta.htm>

Organización de los Estados Americanos (OEA). (1978). *Convención Americana sobre Derechos Humanos*. Disponible en: https://www.oas.org/dil/esp/1969_Convención_Americana_sobre_Derechos_Humanos.pdf

Organización de los Estados Americanos (OEA). (1988). *Protocolo Adicional a la Convención Americana sobre Derechos Humanos en materia de Derechos Económicos, Sociales y Culturales*. Disponible en: <https://www.oas.org/juridico/spanish/tratados/a-52.html>

Pérez Díaz, A. B., Pimentel Linares, G., & Flores Buendía, J. I. (2024). Marginación y cobertura en educación superior: el desafío de las brechas. *Revista Iberoamericana de Educación Superior*, 15(44), 37-60. Disponible en: <https://www.ries.universia.unam.mx/index.php/ries/article/view/1888>

Tamayo, M. (1997). El análisis de las políticas públicas. En R. Bañón & E. Carrillo (Eds.), *La nueva administración pública* (pp. 281-312). Madrid: Alianza.

FUNDING

None.

CONFLICT OF INTEREST

The authors declare that there is no conflict of interest.

AUTHOR CONTRIBUTION

Conceptualization: Mara Karina Mendoza Hernández.

Data curation: Mara Karina Mendoza Hernández.

Formal analysis: Mara Karina Mendoza Hernández.

Research: Mara Karina Mendoza Hernández.

Methodology: Mara Karina Mendoza Hernández.

Project management: Mara Karina Mendoza Hernández.

Resources: Mara Karina Mendoza Hernández.

Software: Mara Karina Mendoza Hernández.

Supervision: Mara Karina Mendoza Hernández.

Validation: Mara Karina Mendoza Hernández.

Visualization: Mara Karina Mendoza Hernández.

Writing - original draft: Mara Karina Mendoza Hernández.

Writing - review and editing: Mara Karina Mendoza Hernández.