

Universal Periodic Review (32nd session, January-February 2019)
Contribution of UNESCO

Afghanistan

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 (25/01/2010)	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
<i>Convention concerning the Protection of the World Cultural and Natural Heritage 1972</i>	20/03/1979 Ratification			Right to take part in cultural life
<i>Convention for the Safeguarding of the Intangible Cultural Heritage 2003</i>	30/03/2009 Acceptance			Right to take part in cultural life
<i>Convention on the Protection and Promotion of the Diversity of Cultural Expressions 2005</i>	30/03/2009 Acceptance			Right to take part in cultural life

Right to education

II. Promotion and protection of human rights on the ground

1. The **Constitution of Afghanistan of 2004**¹ guarantees the right to education in its Article 43, which states that: “**Education is the right of all citizens of Afghanistan**, which shall be offered up to the B.A. level in the state educational institutes **free of charge** by the state. To expand balanced education as well as to **provide mandatory intermediate education** throughout Afghanistan, the state shall design and implement effective programs and prepare the ground for teaching mother tongues in areas where they are spoken.”
2. In terms of reporting to UNESCO, Afghanistan participated in the last consultations of Member States by submitting national reports within the framework of the **8th** (2011-2013) and **9th** (2016-2017) **Consultations** of Member States on the measures taken to implement the UNESCO 1960 Convention against Discrimination in Education. However, Afghanistan did not report on the measures taken to implement the UNESCO 1974 Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms for the **5th** (2012-2013) and 6th (2016-2017) **Consultations**.

Freedom of opinion and expression

➤ Constitutional and Legislative Framework:

3. Article 34 of the Constitution guarantees freedom of the press and freedom of expression.² Article 4 of the Law on Mass Media of 2006 prohibits censorship.³
4. Access to Information Law, adopted in 2014, states that all information held by the Government should be available to the public. A Monitoring Commission on Access to Information is tasked with implementation of the provisions of the law.⁴
5. Articles 436 to 440 of the Afghanistan Penal Code⁵ outline the “act of defamation” and related punishments. Punishments for “untrue” statements include hefty fines and prison sentences of up to 3 months in certain cases.

➤ Implementation of legislation:

6. The National Commission of Radio and Television Broadcast regulates audio and visual media, including issuance of licenses, as per Article 20 of the Law on Mass Media. The President appoints the chairperson and members of the Commission, which reports to the President on its activities.⁶

¹ <http://www.unesco.org/education/edurights/media/docs/ef605c83f9e70b01e7189447d981ec2c631913e1.pdf>

² https://www.constituteproject.org/constitution/Afghanistan_2004?lang=en

³ <http://mfa.gov.af/Content/files/massmedialaw.pdf>

⁴ http://www.wipo.int/wipolex/en/text.jsp?file_id=364735

⁵ https://www.unodc.org/res/cld/document/penal-code-amended_html/PENAL_CODE_with_Amendments.pdf

⁶ http://www.wipo.int/wipolex/en/text.jsp?file_id=364735

➤ Safety of journalists

7. Since 2008, UNESCO has condemned the killing of 40 journalists in Afghanistan.⁷ The Government has responded to UNESCO's requests as regards 30 of the cases, with no cases resolved according to UNESCO records. A request for information regarding 10 cases that occurred in 2017 was made in April 2018 the response will be expected in November 2018.

III. UPR Recommendations

8. Below are the recommendations made within the framework of the 2nd cycle of the Working Group on the Universal Periodic Review (January 2014)⁸:

136.18 *Observe all human rights principles, international conventions and raise awareness among students in higher education institutions regarding human rights values*

136.30 *Further increase its efforts to ensure access to education and health care to all including people with disabilities*

136.31 *Guarantee that repatriated Afghan refugees, particularly women and girls, have adequate access to sanitation services, education, food, housing, freedom of movement and opportunities*

136.37 *Take into full account children, girls in particular, the most marginalised groups, including persons with disabilities, in the strategy and programmes of development in the area of health and education*

136.42 *To strengthen its efforts for poverty eradication and to guarantee the right of education all over the country*

136.44 *Take all necessary measures to ensure equal access to health and education*

136.51 *Continue its measures in laws and other pieces of legislation concerning the promotion of equity, the situation of women and their education opportunities*

136.65 *Further facilitate access to health services and education, especially for women and children*

136.66 *Take further steps to provide access to education and healthcare for all citizens, particularly in rural areas where there is an immediate need*

136.67 *Continue strengthening access to education, in particular, to orphans, children with disabilities and children of missing parents*

136.68 *Introduce and adopt a gender strategy that would be implemented in the higher education institutions*

136.70 *Protect the rights of women by ensuring their participation in political life and in all the peace and reconciliation processes as well as equal opportunities in the area of education and employment*

136.86 *Ensure that access to education is not hampered by differences, particular gender, and take necessary measures to guarantee security of female students and staff members*

136.87 *Continue to enact measures to ensure girls' right to education, namely the reinforcement of security, hiring of more female teachers and improvement of schooling facilities*

⁷ <https://en.unesco.org/unesco-condemns-killing-of-journalists/country/223649>

⁸ <http://www.ohchr.org/EN/HRBodies/UPR/Pages/AFIndex.aspx>

136.88 *Continue to take all possible measures to improve access to quality education without gender discrimination*

136.94 *Advance in the application of legislative measures aiming at the prohibition of discrimination in education, in particular in the rural areas, with a view to promoting gender equality*

136.95 *Strengthen efforts on the fight of discrimination against women and girls, particularly regarding access to education, health, justice and participation*

136.107 *Continue adopting measures aiming at the protection of children and youth, in particular on their right to education*

136.108 *Continue efforts in child rights protection and improving children's conditions, especially in the education and healthcare fields*

136.109 *Continue efforts in adopting required measures to ensure child care, including for disabled children, and ensure their rights in education and health*

136.110 *Enact measures to create safe school environments for girls and promote the right to education for girls on an equal basis with boys*

136.170 *Cultivate and develop at local as well as national level a culture of human rights through appropriate programmes increasingly adapted to the cultural context in the framework of formal and non-formal education*

136.173 *Put priority attention to issues regarding education and training in the human rights area for the officials of the law enforcement bodies, judiciary and of investigative bodies*

136.178 *Ensure gender equity in higher education institutions of the country by increasing the number of female students*

IV. Review and specific recommendations

3. In the previous UPR cycle, seven recommendations highlighted the need to **ensure access to education** and particular attention was given to vulnerable groups, including: orphans, children with disabilities and children of missing parents. Emphasis was equally placed on targeted measures for girls and women in education through the creation of safe school environments, addressing discrimination against women and girls and ensuring gender equality.
4. With regard first to the Constitution, which provides the supreme legal framework, Afghanistan should be encouraged to ensure that **all forms of discriminations are explicitly covered and prohibited** to ensure the right to education to all.
5. In terms of educational policy, the **National Education Strategic Plan III 2017-2021**⁹, has the common goal to prepare skilled and competent citizens through the education system to sustain Afghanistan's socioeconomic development and social cohesion.¹⁰ The three Major Components are Quality and Relevance, Equitable Access, Efficient and Transparent Management. Under Equitable access, the policy objective is to increase equitable and inclusive access to relevant, safe, and quality learning opportunities for children, youth, and adults in Afghanistan, especially women and girls. While this plan is commendable, challenges with regard to education persist.
6. The government should be encouraged to fulfil its obligation to ensure that education is compulsory. Afghanistan could be encouraged to, progressively, provide for at least 1 year of compulsory pre-primary education in accordance with SDG4 and the

⁹ National Education Strategic Plan III 2017-2021 accessible at:

<http://www.unesco.org/education/edurights/media/docs/294ed60cc1c410ac9f82df199d0bbd9c26847bf5.pdf>

¹⁰ National Education Strategic Plan III 2017-2021, p.2.

Framework for Action¹¹. It should also be noted that the **literacy** rate for adults (15 years and older) is as low as 31.4 per cent in some areas. Consequently, Afghanistan should be encouraged to adopt specific measures addressing literacy.

7. The **continued conflict** in Afghanistan has placed children at increased risk of violence, abuse, neglect and exploitation and has resulted in a growing number of out-of-school children. As regards to the recruitment of children by armed forces, a welcome step is the signing of a presidential decree to criminalize underage recruitment on 27 August 2014. However due to the continuing recruitment and use of children, Afghanistan should be encouraged to continue taking necessary measures towards **preventing and ending the recruitment of children**.
8. Based on constitutional rights to education, the National Policy on Internally Displaced Persons gives the Ministry of Education responsibility to ensure that primary and secondary education is free and compulsory for all displaced children. However, the issue of inadequate access to education, remains a high priority.¹²
9. With regard to **children with disabilities**, regular government schools typically have no institutionalized capacity to provide inclusive education or assist children with disabilities often resulting in a fall out of education.¹³ Afghanistan could be encouraged to implement a system to identify, assess, and meet the particular needs of children with disabilities.
10. Despite government efforts to ensure education for all, **girls and women** face serious challenges in accessing and completing their education, with education being more a privilege than a right¹⁴. Particularly concerning are the several incidents of poisoning and acid attacks against schoolgirls between 2012 and 2014.¹⁵ Members of Taliban groups operating in Afghanistan have also openly declared their opposition to the education of girls and have used violent attacks against girls, their families and teachers.¹⁶ With regard to teachers, they are sometimes brought in from other provinces to address the shortage; however, insecurity and fear of violence for teachers and female students while travelling to neighbouring schools serves as a deterrent to mobility.¹⁷ Early marriages often have direct and adverse impact on girls' education, compromising their education opportunities and resulting in higher dropout rates. Despite these challenges, Afghanistan has an established accelerated learning programme which offers a community-based 'fast-track' route for out-of-school and over-age (10–15) girls to complete their primary education (Grade 6).¹⁸ In addition, some 3,000 women aged 10–30, including married women, are being supported to complete high school and earn diplomas issued by the Ministry of Education.¹⁹ Another positive measure was evoked by Afghanistan stating that it has granted funding for

¹¹ "The provision of at least one year of free and compulsory quality pre-primary education is encouraged, to be delivered by well-trained educators", Framework for Action, para. 36.

¹² Report on the human rights of internally displaced persons, A/HRC/35/27/Add.3, April 2017, *op. cit.*, para.37, accessible at: http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a_hrc_35_27_add_3.pdf

¹³ Girls' Access to Education in Afghanistan, Human Rights Watch, *op. cit.*, p.26.

¹⁴ Afghanistan annual report 2017, UNICEF, p.3, accessible at: <https://www.unicef.org/afghanistan/reports/annual-report-2017>

¹⁵ Girls' Access to Education in Afghanistan, Human Rights Watch, *op. cit.*, p.3.

¹⁶ Girls' Access to Education in Afghanistan, Human Rights Watch, *op. cit.*, p.14.

¹⁷ Report on violence against women, its causes and consequences, A/HRC/29/27/Add.3, May 2015, *op. cit.*, para.11

¹⁸ Afghanistan annual report 2017, UNICEF, p.30.

¹⁹ *Ibid.*

research into sexual and gender-based violence at universities and has adopted a decree on the elimination of violence against women in universities.²⁰

11. **Child labour is another issue.** Afghanistan should be encouraged to successfully implement the legislation on child labour and ensure such harmful practices are not interfering with school attendance and compulsory education.
12. Lastly, a noteworthy measure is the nationwide **curriculum reform** process initiated in 2016.²¹

➤ **Specific recommendations:**

1. Afghanistan could be encouraged to adopt legal measures to ensure progressively that at least 1 year of pre-primary education is provided on a compulsory basis.
2. Afghanistan should be encouraged to adopt targeted measures to ensure that education is truly compulsory including through the effective implementation of legislation restricting child labour and to ensure access to education for all in a safe environment. Particular attention to girls and women, child labourers, internally displaced persons and persons with disabilities.
3. Afghanistan could be encouraged to adopt all necessary legal and regulatory measures to eliminate violence and discrimination against girls and women, and ensure the legislation is consistent. It could also be encouraged to effectively implement legislation raising the legal age for marriage, and review the Law on the Elimination of Violence against Women to ensure that the right to education is effectively protected for all girls and women.
4. Afghanistan could be strongly be encouraged to take necessary measures towards preventing and ending the recruitment of children and adopt a prohibition on the military use of school facilities and targeting of education personnel.
5. Afghanistan could be encouraged to envisage implementing effective transparency, accountability and monitoring systems, in order to ensure an appropriate use of existing financial resources, ensure that financing reaches the classroom and that it targets towards the most needed learners.
6. Afghanistan should be encouraged to continue to submit state reports monitoring the implementation of UNESCO's education-related normative instruments.
7. Afghanistan could be encouraged to share with UNESCO any relevant information to update its country profile on UNESCO's Observatory on the Right to Education²².

Freedom of opinion and expression

13. The Government is further recommended to decriminalize defamation and place it within a civil code that is in accordance with international standards.
14. The Government is encouraged to amend the appointment system for the Broadcast licensing Authority to ensure that this body is independent.

²⁰ UNESCO, Girls' and Women's Right to Education, Overview of Measures Supporting the Right to Education for Girls and Women Reported on by Member States, UNESCO (Paris), 2014, p. 12, <http://unesdoc.unesco.org/images/0022/002278/227859E.pdf>

²¹ See: <http://www.unesco.org/new/en/kabul/education/capacity-development-for-education-2030/curriculum-reform-in-afghanistan/>

²² <http://www.unesco.org/education/edurights/index.php?action=&lng=en&>

15. The Government is urged to investigate the cases of killed journalists, and to voluntarily report on the status of judicial follow-up to UNESCO. The Government may wish continue 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 protection of journalists and freedom of expression.

Right to culture

16. As a State Party to the Convention concerning the Protection of the World Cultural and Natural Heritage (1972)²³, the Convention for the Safeguarding of the Intangible Cultural Heritage (2003)²⁴ and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)²⁵, Afghanistan 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, Afghanistan is encouraged to give due consideration to the participation of communities, practitioners, cultural actors and NGOs from the civil society as well as vulnerable groups (minorities, indigenous peoples, migrants, refugees, young peoples and peoples 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

17. Afghanistan 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 Afghanistan is encouraged to report to UNESCO in future on the implementation of the revised 1974 Recommendation, which is now entitled Recommendation on Science and Scientific Researchers (2017), on any legislative or other steps undertaken by it with the aim to ensure the application of this international standard-setting instrument, paying 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 scientists' rights of autonomy, freedom of research, expression and publication.

²³ Periodic Report available at: <http://whc.unesco.org/document/116967>

²⁴ Periodic Report not available

²⁵ Periodic Report not available