

Universal Periodic Review (43rd session)

Contribution of UNESCO

Bahamas

I. Background and framework

| <i>Title</i> | <i>Date of ratification, accession, acceptance, or succession</i> | <i>Declarations /Reservations</i> | <i>Recognition of specific competences of treaty bodies</i> | <i>Reference to the rights within UNESCO's fields of competence</i> |
|--|---|---|---|---|
| Convention against Discrimination in Education 1960 | Not ratified | Reservation to this Convention shall not be permitted | | Right to education |
| Convention concerning the Protection of the World Cultural and Natural Heritage (1972) | Ratification on 15 May 2014 | | | Right to take part in cultural life |
| Convention for the Safeguarding of the Intangible Cultural Heritage (2003) | Ratification on 15 May 2014 | | | Right to take part in cultural life |
| Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005) | Ratification on 29 December 2014 | | | Right to take part in cultural life |

II. Promotion and protection of human rights on the ground

A. Education

1. The Constitution of the Bahamas of 1973¹ does not guarantee the right to education however article 26 proscribes any form of discrimination.

¹<http://www.unesco.org/education/edurights/media/docs/4be5a11f7abd3f06f565f49278d26d2ffe5342b7.pdf>

2. The Education Act of 1996², while not recognizing that education is a right, provides that the ‘Minister shall be to promote the education of the people of The Bahamas by the progressive development, in so far as the resources of the Minister permit, of schools and other educational establishments devoted to that end’ (Article 3(1)). Article 22 states that “‘compulsory school age” means any age between five years and sixteen years’ and education is free for a duration of twelve years according to articles 12 (1) and 38 (1).

B. Freedom of opinion and expression

Constitutional and Legislative Framework:

3. The Constitution of the Commonwealth of The Bahamas guarantees protection of freedom of expression under its Article 23: “Except with his consent, no person shall be hindered in the enjoyment of his freedom of expression, and for the purposes of this Article the said freedom includes freedom to hold opinions, to receive and impart ideas and information without interference, and freedom from interference with his correspondence”.³ There are, however, exceptions to this rule under Article 23-2-a and 2-b, no law or act done under this law will be held to be inconsistent (...) with Article 23 where the law in question makes provision “a. which is reasonably required in the interests of defence, public safety, public order, public morality or public health; or for the purposes of protecting the rights, reputations and freedoms of other persons, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts, or regulating telephony, telegraphy, posts, wireless broadcasting, television, public exhibitions or public entertainment” or “b. which imposes restrictions upon persons holding office under the Crown or upon members of a disciplined force” and except so far as that law or the act done under that law is shown not to be “reasonably justifiable in a democratic society.”
4. Defamation remains criminalized in The Bahamas under “negligent” and “intentional” defamation held as punishable with imprisonment under Article 315 of the Penal Code⁴.

²<http://www.unesco.org/education/edurights/media/docs/bab686ec3b9344f9e8d5053afb2d3b373d809bfb.pdf>

³ https://www.constituteproject.org/constitution/Bahamas_1973.pdf?lang=en

⁴ http://laws.bahamas.gov.bs/cms/images/LEGISLATION/PRINCIPAL/1873/1873-0015/PenalCode_1.pdf

5. In 2016 the Government of The Bahamas officially launched the Freedom of Information Bill⁵. This led to the enactment of the Freedom of Information Act⁶ in 2017. The purpose of this Act is to guarantee and strengthen the fundamental principles of transparency, governmental accountability and public participation in national decision making. This Act grants to the public a general right of access to records held by a public authority, subject to exemptions.
6. The Bahamas has an access to information law called the “Freedom of Information Act” that was put in place in 2017.
7. The Broadcasting Act⁷ regulates the establishment of a Corporation to carry on a broadcasting and television service in The Bahamas. The Television Regulatory Authority Act⁸ regulates the operations of licensed cable television operators.

Implementation of the law:

8. Under Chapter 305 Section 4, the Broadcasting Act establishes the Broadcasting Corporation of The Bahamas as governed by five members appointed by the Governor-General. These members of the Corporation shall hold office at the Governor-General's pleasure and subject to this, shall be appointed for such period, not exceeding three years nor less than one year, as the Governor-General may fix in relation to each member at the time of his appointment.
9. Licensing of other television operators has been assigned to the Television Regulatory Authority according to the Television Regulatory Authority Act. The Authority shall consist of not less than five and no more than seven persons to be appointed by the Governor-General. According to Section 3 of the Act, two of the appointments are made after consultation with the Leader of the Opposition.

Safety of journalists:

⁵https://d3n8a8pro7vhm.cloudfront.net/itsnojoke/pages/192/attachments/original/1492618827/Freedom_of_Information_Bill_%282%29.pdf?1492618827

⁶ https://www.bahamas.gov.bs/wps/wcm/connect/f9b629d9-25a7-467a-971f-d12b35082812/FreedomofInformationAct2017_1.pdf?MOD=AJPERES

⁷

http://laws.bahamas.gov.bs/cms/images/LEGISLATION/PRINCIPAL/1956/1956-0018/BroadcastingAct_1.pdf

⁸

http://laws.bahamas.gov.bs/cms/images/LEGISLATION/PRINCIPAL/1994/1994-0027/TelevisionRegulatoryAuthorityAct_1.pdf

10. Since 2006, when UNESCO began systematic monitoring, no killings of journalists have been recorded in The Bahamas⁹, as of 5 August 2022.

III. Review and specific recommendations

A. Education

Fundamental principles

11. The legal framework does not enshrine the right to education. Education needs to be recognized as a human right in line with international human rights law and as recommended previously (Recommendation N°105.86)
12. In addition, the Education Act, as the main legal text governing the education system, should explicitly proscribe any forms of discrimination in education. The Bahamas would benefit from ratifying the UNESCO Convention against Discrimination in Education which lays out fundamental principles on the right to education and lists the prohibited grounds of discrimination as recommended previously (Recommendation N° 105.28).

Pre-primary education

13. Pre-primary education is neither free nor compulsory in the law, despite the Education 2030 Framework for Action which call all states to introduce at least one year of free and compulsory pre-primary education. As a result, 34.52% of children were enrolled in pre-primary schools in 2018.¹⁰
14. Nevertheless, according to the UNESCO GEM Report, 'Voucher programmes seek to increase access to pre-primary education through non-state providers. Under the Bahamas' Universal Pre-primary Education Initiative, when there are no more places in government-operated schools, vouchers worth US\$2,000 are provided for up to 1,000 children per year and paid directly to approved private preschools that meet

⁹ <https://en.unesco.org/themes/safety-journalists/observatory/country/223671>

¹⁰ UIS data

national standards (Bahamas Ministry of Finance, 2019).¹¹

Quality

15. Recommendation N°105.88 from the previous UPR cycle, referred to improving public education. In this regard, the Bahamas sought to enhance student literacy outcomes and modernize schools - by building, renovating and expanding schools.¹²

Corporal punishment

16. Article 110 of the Penal Code permits 'a blow or other force, not in any case extending to a wound or grievous harm, may be justified for the purpose of correction' including in the school. Corporal punishment must be proscribed as is not consistent with the realization of the right to education and children's rights.

Minimum age of employment

17. The minimum age of employment is 16 years in the Child Protection Act (article 7) or 14 years in the Employment Act (article 49 and 50(1)). Due to this inconsistency, the age at which compulsory education ends (16 years) cannot be considered as aligned with the minimum age of employment.

Age of marriage

18. Ensuring a legal protection against child marriage is essential to realizing children's right to education by ensuring they do not drop out of school due to marriage. According to the Marriage Act 1908¹³, the minimum age of marriage without consent of others is 18 years (article 20) although exceptions are permitted with the consent of a parent or guardian, with a lower limit of 15 years. In very exceptional

¹¹ UNESCO GEMR. 2021. Non-state actors in education: Who chooses? Who loses? P. 152. Accessible at: <https://unesdoc.unesco.org/ark:/48223/pf0000379875/PDF/379875eng.pdf.multi>

¹² Prime Minister's Delivery Unit. N.d. Annual Report, May 2018 – April 2019, p.14. Accessible at: https://mofstii.gov.bs/wp-content/uploads/2020/05/PMDU-Annual-Report-2018_2019.pdf

¹³ http://laws.bahamas.gov.bs/cms/images/LEGISLATION/PRINCIPAL/1908/1908-0004/MarriageAct_1.pdf

circumstances, the Supreme Court can, with 'good cause shown' provide consent for the marriage of children between the ages of 13 and 15 years (article 50).

Digital education

19. UNESCO's Initiative on the Evolving Right to Education¹⁴ highlights the need to ensure digital skills and digital inclusion. In this regard, the Bahamas have initiated a 'Digital Evolution' to improve the quality of education.¹⁵ This includes:

- Upgrade all Government schools from DSL to optical fibre
- Install Wi-Fi and hardware in all Government schools
- Distribute tablets to all students and laptops and projectors to teachers in Government pre-schools and lower primary schools
- Develop a comprehensive Education Management Information System'

20. In the reporting period (May 2018 to April 2019) the Government: 'entered into contracts to upgrade all 169 schools in The Bahamas with fibre optic cables, Internet and Wi-Fi access; initiated Digital Evolution Pilot Project at eleven schools on New Providence, Grand Bahama and Eleuthera to provide proof of concept for the fibre upgrades and Wi-Fi connectivity; distributed 3,728 of the first 12,000 tablets to students throughout the public school system¹⁶.

Specific recommendations:

21. The Bahamas should be encouraged to:

- i. Ratify the Convention against Discrimination in Education
- ii. Enshrine the right to education and the principle of non-discrimination in education in the legal framework
- iii. Introduce at least one year of free and compulsory pre-primary education

¹⁴ <https://www.unesco.org/en/education/right-education/evolving>

¹⁵ Prime Minister's Delivery Unit, Annual Report, May 2018 – April 2019, p.14.

¹⁶ Ibid.

- iv. Revise the Penal Code to proscribe any form of violence in educational settings including corporal punishment
- v. Raise the minimum age of employment to 16 years in the Employment Act to align with the end of compulsory education
- vi. Ensure that the minimum age of marriage is set at the age of 18, and that only judicial dispensation can lower it to an absolute minimum age of 16 years
- vii. Submit regularly comprehensive national reports for the periodic consultations on UNESCO's education-related standard-setting instruments, and notably on the Recommendation against Discrimination in Education.
- viii. Share with UNESCO any relevant information to update its country profile on UNESCO's Observatory on the Right to Education¹⁷ and Her Atlas: Monitoring the right to education for girls and women¹⁸.

B. Freedom of opinion and expression

- 22. The Bahamas is recommended to decriminalize defamation and place it within a civil code that is in accordance with international standards.
- 23. The Bahamas is recommended to continue to strengthen the independence of broadcast licensing in line with international standards and ensure independence in the appointment of their members.

C. Cultural Rights

- 24. As a State Party to the Convention concerning the Protection of the World Cultural and Natural Heritage (1972), the Convention for the Safeguarding of the Intangible Cultural Heritage (2003) and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005), Bahamas 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

¹⁷ <http://www.unesco.org/education/edurights/index.php?action=countries&lng=en>

¹⁸ <https://en.unesco.org/education/girls-women-rights>

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, Bahamas is encouraged to give due consideration to the participation of communities, practitioners, cultural actors and NGOs from civil society as well as vulnerable groups (minorities, indigenous peoples, migrants, refugees, young peoples and peoples with disabilities), and to ensure that equal opportunities are given to women and girls to address gender disparities.

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

25. Bahamas did not submit its National Report on the implementation of the *Recommendation on Science and Scientific Researchers* (2017) for the consultation period from 2017 to 2020. Therefore, Bahamas is encouraged to report to UNESCO on its implementation actions, especially noting legislative, regulatory or other measures adopted by it and funding allocated, with the aim to ensure application of these norms and standards in national law, policy and practice.
26. Particular attention should be paid to measures towards the realization of the human rights of scientific researchers (freedom of association, freedom of research, expression and publication, working conditions, etc.) and also of human rights related to the practice of science. The latter include access to and uses of scientific knowledge and data, the sharing of benefits of scientific progress and its applications, the principle of equality and non-discrimination, with emphasis on removal of gender barriers in access to science education and scientific careers, the protection of human subjects of research, as well as the dialogue between scientific community and society.
27. Furthermore, Bahamas is encouraged to share data on national policy and practice and expand input on issues covered by the 2017 Recommendation in its national report to the UPR, particularly in relation to the right to share in scientific advancement and its benefits (article 27, Universal Declaration of Human Rights). This will allow further discussions thereon at the Human Rights Council and the formulation of specific recommendations. Within this framework, Bahamas is urged to consider addressing issues of equality and non-discrimination in access to education, as well as to

scientific benefits and their applications, and to include reference to the relevant dimensions of the right to share in scientific advancement and its benefits in its reporting on the impact of the COVID-19 pandemic and the assessment of responses thereto. Finally, Bahamas is invited to expand the scope of application of freedom of expression to include scientists and scientific researchers.