

Universal Periodic Review
(18th session, January – February 2014)

Contribution of UNESCO to Compilation of UN information
(to Part I. A. and to Part III F, J, K, and P)

Afghanistan

I. BACKGROUND AND FRAMEWORK

A. Scope of international obligations: Human rights treaties which fall within the competence of UNESCO and international instruments adopted by UNESCO

1. Table:

<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>
Convention against Discrimination in Education (1960)	Acceptance 25/01/2010	<i>Reservations to this Convention shall not be permitted</i>		Right to education
Convention on Technical and Vocational Education. (1989)	Not state party to this Convention			Right to education
Convention concerning the Protection of the World Cultural and Natural Heritage (1972)	Ratified 20/03/1979			Right to take part in cultural life
Convention for the Safeguarding of the Intangible Cultural Heritage (2003)	Acceptance 30/03/2009			Right to take part in cultural life
Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)	Acceptance 30/03/2009			Right to take part in cultural life

II. Input to Part III. Implementation of international human rights obligations, taking into account applicable international humanitarian law to items F, J, K, and P

Right to education

Normative Framework:

Constitutional framework:

2. Afghanistan's **2004 Constitution**¹ specifies in Chapter I, **Article 17** that "the state shall adopt necessary measures for promotion of education in all levels, development of religious education, organizing and improving the conditions of mosques, madrasas and religious centers."
3. **Article 43** of Chapter II relating to Fundamental Rights and Duties of Citizens, sets out that: (1) "Education is the right of all citizens of Afghanistan, which shall be provided up to the level of the B.A. (*lisâns*), free of charge by the state"; (2) "The state is obliged to devise and implement effective programs for a balanced expansion of education all over Afghanistan, and to provide compulsory intermediate level education"; (3) "The state is also required to provide the opportunity to teach native languages in the areas where they are spoken."
4. **Article 44** of Chapter II adds that "the State shall devise and implement effective programs for balancing and promoting of education for women, improving of education of nomads and elimination of illiteracy in the country."
5. According to **Article 45** of Chapter II, "the state shall devise and implement a unified educational curriculum based on the provisions of the sacred religion of Islam, national culture, and in accordance with academic principles, and develops the curriculum of religious subjects on the basis of the Islamic sects existing in Afghanistan."
6. **Article 46** stipulates: "(1) Establishing and operating of higher, general and vocational educations are the duties of the state; (2) The citizens of Afghanistan also can establish higher, general, and vocational private educational institutions and literacy courses with the permission of the state; (3) The state can also permit foreign persons to set up higher, general and vocational educational private institutes in accordance with the law; (4) The conditions for admission to state higher education institutions and other related matters to be regulated by the law."
7. Besides, **Article 22** of Chapter II stipulates that "(1) Any kind of discrimination and privilege between the citizens of Afghanistan are prohibited; (2) the citizens of Afghanistan – whether man or woman – have equal rights and duties before the law."
8. Legislative framework: Article 3 of the Law on Education of 1387 (2008)² has specified, "The nationals of the Islamic Republic of Afghanistan have an equal right to education without any kinds of discrimination."

¹http://www.servat.unibe.ch/icl/af00000_.html

9. The Law on Education also provides for basic education of nine years duration (*Article 17*), which is commonly embraced in many other countries. Similarly, its focus on quality education responds to UNESCO's concern for quality imperatives (*Articles 7, 18, 20, 26*). According to *Article 4*, the Ministry of Education is obliged to provide free education for all the children and youth of Afghanistan. In addition, the Law provides legal framework to address the major challenge of resource mobilisation as a national priority and securing education budget on an enduring basis. It also provides for the Academic Council (*Article 8*) to be established in the Ministry of Education's framework. As an apex body, the Academic Council is conceived as the *think tank* and shall have the mission of advising the Minister of Education on national and international issues of key importance in the field of education. The Education Law has been translated into official languages - Pashto and Dari - of Afghanistan. Thanks to this new law, over 37% of the children that enrolled in primary education in 2008 were girls³ and it may have relevance for other countries, especially in post-conflict reconstruction phase.

10. In April 2009, a new law was about to be adopted by Afghanistan's Parliament on the status of Shiites in the South Asian nation undermining the right to education, the principle of gender equality and the rights of the child. In a letter to Afghan President Hamid Karzai, Former UNESCO Director-General Koïchiro Matsuura expressed concern that the draft legislation contravenes principles enshrined in the Universal Declaration of Human Rights, calling on the country's leader to prevent the law from entering into force.⁴ **Shi'a Personal Status Law** was published in the official Gazette on July 27, 2009 (Gazette 988), bringing the law into force.⁵ On 31 August 2009, the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on violence against women, its causes and consequences and the Independent Expert on minority issues sent jointly a communication to the Afghan government. They expressed serious concern that the Shi'a Personal Status Law violates the human rights of minority Shi'a women and girls, is in breach of Afghanistan's national and international obligations, and will further entrench discrimination and violence against women, girls and members of religious minorities.⁶

11. Compulsory education and school attendance: The right to education for all has been enshrined in the Afghan Constitution and therefore no one can be deprived of this right for any reason whatsoever.

12. Non-discrimination and gender equality: In Afghanistan, as at 2010, gender parity in primary education (measured by the gross enrolment ratio - GER) is 97%, while the Gender Parity Index (F/M) is 0.69. However, the GER in secondary education, as at 2010, is 46%, while the GPI 0.51.

² Decree 56, 31/4/1387, http://planipolis.iiep.unesco.org/upload/Afghanistan/Afghanistan_Education_law.pdf

³ National Report, Islamic Republic of Afghanistan, "The development of education", 10/15/2008, p. 3, http://www.ibe.unesco.org/National_Reports/ICE_2008/afghanistan_NR08.pdf

⁴ <http://www.un.org/apps/news/story.asp?NewsID=30510&Cr=afghan&Cr1=>

⁵ <http://www.hrw.org/en/news/2009/08/13/afghanistan-law-curbing-women-s-rights-takes-effect>

⁶ http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A-HRC-13-40-Add1_EFS.pdf

13. Religious instruction: The Afghan government has initiated a comprehensive reform of the Islamic education sector.

14. Teachers: Despite an increase of teachers since 2001, only 24% of teachers have the minimum qualifications to teach. The country lacks common and appropriate standards for certifying teachers and accrediting teacher training institutions. Consequently, the quality of education in Afghanistan is poor.

15. Toward the goal of improving the quality of education, the Ministry of Education has been committed to provide upgrading opportunities for teachers, and also training and technical assistance for school principals or administrators. This aims at attracting more women to the teaching profession as well as encouraging well-qualified Afghan teachers currently working in Iran and Pakistan to come back to Afghanistan and teach in schools in their home communities.⁷ Other measures were launched to improve teachers' status.

16. Furthermore, a few innovative teacher training programmes promote interactive learning. They have introduced games, play and physical activities as part of the teaching and learning process. Individual lesson plans have been introduced in many schools.⁸

Policy measures:

17. Major policy measures: The education policy was encompassed in the **National Education Strategic Plan (NESP) 1385-1389 (2006-2010)** which is “the direct response by the State on how it will fulfil its obligation according to the Constitution and education law”.⁹ Teacher education and training (pre- and in-service), as well as improving working conditions for teachers was one of the main priority area of the NESP as well as school construction. It also addressed important issues related to the development of more inclusive and child-friendly schools. It was technically supported by UNESCO International Institute for Educational Planning (IIEP) and it comprised priority programmes to provide equal access to quality education for all.¹⁰ The current NESP was updated in 2008 to introduce the concept of inclusive education and another plan is being developed, which is called **Updated National Education Strategic Plan (NESP) for Afghanistan 1387-1391 (2008-2013)**.¹¹ Other strategic documents encompass the education issues; the **Afghanistan National Development Strategy**¹² (ANDS) is a five-year strategy adopted in **2008** to reduce poverty and promote economic and social development. It made literacy and basic education a top priority for the government.

18. Human Rights Education: The Afghan Independent Human Rights Commission (AIHRC) was established according to Article 58 of the Afghan Constitution to monitor, promote, and

⁷ Ibid., p. 21.

⁸ Ibid., p.48

⁹ National Report, Islamic Republic of Afghanistan, “The development of education”, op. cit., p. 8..

¹⁰ Ibid. p. 15.

¹¹ Ibid., p. 16.

¹² http://www.ands.gov.af/ands/ands_guide/ands_guide/The%20Ands%20Guide%20Eng.pdf

protect human rights in Afghanistan, and functions based on the Law on the Structure, Duties, and Mandate of the AIHRC.

19. Vocational and technical education: Article 20 of the Law on Education sets out the objectives of TVET in Afghanistan, which are to: i) train human resources in technical-professional, vocational and artistic fields needed by the society and international market, taking into consideration national and international standards with special concern to the needs of women; ii) develop and expand knowledge and skills through theoretical and practical training in the fields important for national development; iii) provide special education for blind and disabled people in relevant fields; iv) prepare students to be admitted to tertiary level institutions and universities.

20. The Afghan Ministry of Education aims to address the serious challenges facing the education system of the country including TVET and amongst others has set the following targets:

- i) to increase access to TVET through the establishment of new institutions such as regional institutes from 16 to 32, provincial schools from 38 to 102 and district school to 364 during the years 2009-2014;
- ii) to increase the enrolment and training of TVET students from 19500 in 2009 to 150 000 in March 2014;
- iii) to increase female participation in TVET to 30%;
- iv) to increase disabled participation in TVET to 1000 students.

21. To develop teachers' capacities for delivering better services:

- i) to make sure that 40% of the TVET teachers pass competency based exams up to 2014;
- ii) to make sure that 80% of the TVET teachers are using active participation methodology.
- iii) to provide quality and market-aligned curriculum and training materials to the students;
- iv) to equip schools with quality and market-aligned equipment.

22. Coordination of Ministries involved in Afghan TVET needs to be improved. Difficulties in communication within the Ministry of Education, Ministry of Higher Education and Ministry of Labour, Social Affairs, Martyrs and Disabled lead to obstacles in the task of developing a coherent strategy for the TVET system.

23. Cooperation: Afghanistan is party to the 1960 UNESCO Convention against Discrimination in Education. Afghanistan did not report within the framework of the Sixth and Seventh Consultations of Member States on the measures taken for the implementation of the 1960 UNESCO Convention against Discrimination in Education (covering the periods 1994-1999 and 2000-2005). However, it reported within the framework of the Eight Consultation of Member States (covering the period 2006-2011).

24. Afghanistan did not report within the framework of the Fourth Consultation of Member States on the measures taken for the implementation of the 1974 UNESCO Recommendation concerning Education for International Understanding, Co-operation and Peace and Education

relating to Human Rights and Fundamental Freedoms (covering the period 2005-2008). Afghanistan has not yet reported within the framework of the Fifth Consultation of Member States on the measures taken for the implementation of the 1974 Recommendation (covering the period 2009-2012).

25. Afghanistan reported within the framework of the Second Consultation (2011) on the measures taken for the implementation of the 1976 Recommendation on the Development of Adult Education. However, did not report for the First Consultation (1993).

26. Afghanistan is not party to the 1989 UNESCO Convention on Technical and Vocational Education.

Freedom of opinion and expression

27. Constitutional and Legislative Framework: Freedom of expression is guaranteed under Article 34 of the Constitution of Afghanistan.

28. There is no freedom of information law in Afghanistan. Recently, Afghanistan published the draft Access to Information Law for public consultation.

29. Defamation remains criminalized under Articles 436-440 of the Afghan Penal Code. Those found guilty can be fined (10 000- 20 000 Afghanis) or imprisoned at least three months or more¹³.

30. Media Self-Regulation: Media self-regulatory mechanisms are not developed in Afghanistan.

31. Safety of Journalists: UNESCO recorded nine killings of journalists and media workers in Afghanistan between 2008 and 2012¹⁴. The Director-General of UNESCO condemned these nine killings and called on the country to inform UNESCO, on a voluntary basis, of the actions

¹³ Afghan Penal Code [http://www.cicr.org/ihl-nat.nsf/6fa4d35e5e3025394125673e00508143/845809a497304d8fc12571140033ac69/\\$FILE/Penal%20Code%20-%20Afghanistan%20-%20EN.pdf](http://www.cicr.org/ihl-nat.nsf/6fa4d35e5e3025394125673e00508143/845809a497304d8fc12571140033ac69/$FILE/Penal%20Code%20-%20Afghanistan%20-%20EN.pdf)

¹⁴ Based on the UNESCO Director-General's Report on the Safety of Journalists and the Danger of Impunity 2012 (available at <http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/FED/Safety%20Report%20by%20DG%202012.pdf>) and the UNESCO's Director-General's public statements of killings of journalists (www.unesco.org/webworld/condemnation)

taken to prevent the impunity of the perpetrators and to notify the Director-General of the status of the judicial inquiries conducted on each of the killings condemned by UNESCO¹⁵.

Right to development and environmental issues

32. Afghanistan remains at high risk to environmental damage¹⁶. According to the UNDAF, up to 80% of Afghans remain dependent on natural resources for income and sustenance for their daily livelihood. Since 1978, Afghanistan's total area of forest has been reduced by nearly half. From 2000 to 2005 alone it dropped from 10,150 to 8,670 square kilometres. In addition, access to safe drinking water is limited. Nationwide, only 31% of households have access to safe drinking water, varying significantly from only 26% in rural areas to 64% in urban areas. The level of access to safe drinking water is lowest among Kuchi households, a mere 16%. In addition, approximately 73% of the population has access to sanitation facilities within their compounds. Lack of access to clean drinking water and poor sanitation contributes considerably to high mortality rates. The government has focused its efforts towards environmental issues through the National Environment Protection Agency (NEPA) to perform its oversight function.

33. Science and technology related ministries and executing agencies will be challenged to review and recompose mandates of publicly funded S&T institutions and their links with one another, and to forge pro-active relationships with the private sector. Pursued in this context, Afghanistan's long-term development, including the public and private investment projects, will need to be more technologically driven, and public and private enterprises should work closer and more strategically to better harness their synergies and complementarities. In addition, there is a growing need to enhance public awareness of the importance of science and technology in everyday life.

34. There is also a dire need to develop capacity for managing research and development in the application of science and technology for modernisation and enhancement of government sectors and sub-sectors. For this purpose, measures need to be taken by the government for the establishment of appropriate structure and provision of personnel in each ministry and government agency.

35. As stated in the National Higher Education Strategic Plan (NHESP), the research policy and practice in the higher education sector should both integrate and focus on science and technology as a cornerstone for development. Students should be encouraged to focus on the essential courses related to maths and science in secondary school so that they can build a solid foundation for advanced studies in tertiary education. In addition, the higher education system needs to be more technologically driven, and should work in close collaboration with the private

¹⁵ Decision on the Safety of Journalists and the Issue of Impunity. Adopted by the IPDC Intergovernmental Council at its 27th Session (available at http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/ipdc2010_safety_decision_final.pdf)

¹⁶ <http://unesdoc.unesco.org/images/0018/001875/187584E.pdf>.

sector to strategically harness the benefits of technological developments. It is important that the Science and Technology policy is a catalyst for Afghanistan's long-term development and that strategic links be made to enhance commercial, industrial and entrepreneurial development activities.

36. Finally, in order to ensure a successful Science and Technology research environment, the government needs to continue to devote a high proportion of the national budget to education and research, and training in S&T related sectors.

37. Co-operation: Afghanistan transmitted its national submission to UNESCO on the application of the 1974 Recommendation on the Status of Scientific Researchers and took part in the consultations concerning the issue of a possible revision of the 1974 Recommendation discussed currently at UNESCO.

Cultural rights

38. Normative Framework: constitutional and legislative frameworks: The Constitution of Afghanistan provides a basis for a pluralistic society, linguistic diversity and freedom of expression through the arts, literature and media (Art. 16, 34, 45, 47), as long as this expression does not contravene Islamic laws and precepts. The 2004 Law on the Protection of Historical and Cultural Properties concerns the protection of sites and cultural objects through the implementation of the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, the UNIDROIT Convention of 1995 and the 1972 Convention concerning the Protection of the World Cultural and Natural Heritage. There is no specific law to support the implementation of the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage or 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions.

39. Institutional framework: The Ministry of Information and Culture is responsible for the culture programme and the development and implementation of cultural policy. Specialized departments in the central government cover theatre, media, and film, fine arts, intangible and tangible heritage. The Ministry has representatives in every province of Afghanistan to pursue the government's cultural mandate. The departments' lack of resources impedes the implementation of operational activities and the provision of support to local civil society groups.

40. Policy measures: There are no specific policy measures in place to advance the right of individuals or groups to take part in the cultural life of the nation. This is the case for all areas that fall within the mandate of the Ministry. The Afghan Government recently advocated for a National Priority Programme (NPPs) outlining ways in which the international donor community could adapt to government objectives and priorities. However, arts, heritage and cultural industries in general were not acknowledged within the document and therefore have not been given priority by the Government.

41. Work with civil society: Although Afghanistan has benefitted in recent decades from massive aid, intangible heritage, fine arts and cultural expressions are still insufficiently recognized and underfunded in the broader development schema for Afghanistan. The civil

society sector has therefore not been able to contribute to the development of cultural and creative industries.

III. RECOMMENDATIONS

Right to education

42. Afghanistan should be encouraged to submit state reports for the periodic consultations of UNESCO's education related standard-setting instruments.
43. Afghanistan could be encouraged to strengthen its efforts to combat illiteracy, particularly in rural areas.
44. Afghanistan should consider expanding facilities and implementing measures to ensure access to girls and women to all levels of education.
45. Afghanistan should be encouraged to direct its efforts towards gender equality and the elimination of discrimination towards girls and women in education.
46. Afghanistan could be encouraged to intensify its efforts to raise general awareness of the importance of the right to education.
47. Afghanistan could be encouraged to intensify its efforts to strengthen positive practices in making education more inclusive for vulnerable and marginalized groups, e.g., girls, women, and children from rural areas.

Freedom of opinion and expression

48. Afghanistan is encouraged to continue its positive measure of launching public consultation on the draft Access to Information Law and to ensure that it is in line with the international human rights standards and documents related to the right to access information.
49. Afghanistan is encouraged to decriminalize defamation, to reform its criminal code and place the matter under the civil code in conformity with the major international standards on defamation.
50. UNESCO recommends the development of media self-regulatory mechanisms in Afghanistan.
51. Afghanistan should investigate the reported cases of attacks on journalists, take all necessary action to stop the violence directed at media workers, improve safety of journalists and bring the responsible for these crimes to justice.

Cultural rights

52. Insufficient attention has been given to advance people's right to participate in cultural life and to build creative and cultural industries in Afghanistan. Afghanistan is encouraged to promote creative and cultural industries which, besides generating income, will contribute to the strengthening of Afghanistan's national cultural identity that helps counter ethnic rifts and instability.

53. Afghanistan is encouraged to consider the right to participate in the cultural life of the nation within its overall development policy and to elaborate specific cultural policy aimed at the diversity of Afghan communities, especially through the strengthening of civil society groups

54. Afghanistan is encouraged to include culture in the broad sense in the National Priority Programme in order to raise funds with international donors whose funding is bound to the existing 'NPPs'.