

**Universal Periodic Review (34th session, October-November 2019)
Contribution of UNESCO**

**The Gambia
(Right to Education)**

I. Background and framework

<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>	Not a State Party	Reservation to this Convention shall not be permitted		Right to education
<i>Convention concerning the Protection of the World Cultural and Natural Heritage (1972)</i>	01/07/1987 Ratification			Right to take part in cultural life
<i>Convention for the Safeguarding of the Intangible Cultural Heritage (2003)</i>	26/05/2011 Ratification			Right to take part in cultural life
<i>Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)</i>	26/05/2011 Ratification			Right to take part in cultural life

II. Promotion and protection of human rights on the ground

A. Education

1. The **Constitution of the Republic of The Gambia of 1997**¹ guarantees at **Section 30** that “all persons shall have the right to equal educational opportunities and facilities and with a view to achieving the full realization of that right: (a) basic education shall be free, compulsory and available to all; (b) secondary education, including technical and vocational education, shall be made generally available and accessible to all by every appropriate means, and in particular, by the progressive introduction of free education; (c) higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular, by progressive introduction of free education; (d) functional literacy shall be encouraged or intensified as far as possible; (e) the development of a system of schools with adequate facilities at all levels shall be actively pursued.” **Section 29(2)** specifies that children under sixteen shall not be employed in or be required to perform work that is likely to “interfere with their education”. **Section 31(2)** guarantees the protection of disabled persons against discrimination concerning access to education. **Section 217(1)** guarantees that “the state shall endeavour to provide adequate educational objectives opportunities at all levels of study for all citizens”. **Section 217(2)** states that the “State shall pursue policies to ensure basic education for all citizens and shall endeavour to provide adequate resources so that such tuition for basic education shall be free for all citizens.”

2. The **Education Act of 1992** provides the basis for “the management and development of educational services in the Gambia, the registration of teachers and control of schools and to make provisions for matters connected therewith”.² Section 18 of the **Children’s Act of 2005** states, “Every child has the right to free and compulsory education and it is the duty of government to provide it”.³

B. Freedom of opinion and expression

Constitutional and Legislative Framework:

3. Freedom of expression and the press are guaranteed under Article 25 of the Gambian Constitution (1996, amended in 2001).⁴

4. In 2018 the Constitutional Court of The Gambia ruled unconstitutional the Gambian Penal Code (1933)⁵ provisions on seditious (sections 51, 52, 52A, 53 & 54); publication of “false news” (cf. section 59) – punishable by up to two years imprisonment⁶, and defamation (section 181A)⁷.

¹ <http://www.unesco.org/education/edurights/media/docs/ff78c097a769a8e45809162ced6b60e03a9aaa7b.pdf>

² World Data on Education, VII Edition 2010/2011 – The Gambia, p. 3.

http://www.ibe.unesco.org/fileadmin/user_upload/Publications/WDE/2010/pdf-versions/Gambia.pdf

³ http://www.africanchildforum.org/clr/Legislation%20Per%20Country/Gambia/gambia_children_2005_en.pdf

⁴ <http://www.ilo.org/dyn/travail/docs/1952/GMB48490.pdf>

⁵ http://www.ilo.org/dyn/natlex/docs/SERIAL/75289/107490/F973061365/GMB75289%20pp%201284_1316.pdf, insertion of the 2005 amendment: <http://www.ilo.org/dyn/natlex/docs/SERIAL/75299/78264/F1686462058/GMB75299.pdf>

⁶ http://www.ilo.org/dyn/natlex/docs/SERIAL/75289/107489/F1079042199/GMB75289%20pp%201252_1283.pdf (p. 1263)

⁷ <https://cpj.org/2018/05/gambia-declares-criminal-defamation-unconstitution.php>

5. Nevertheless, the 2013 amendment to the Information and Communication Act of 2009 about publication of “false information” over the internet⁸⁹ is still in force in the country as the government has not yet undertaken measures to repeal it.

6. A freedom of information law does not currently exist in the country.

7. The government has launched an initiative with media and civil society organizations to draft a Strategic Framework for Media Reform in The Gambia. The document contains a plan for reviewing the Information and Communications Act and Criminal Code, as well as adopting a Right to Information Law.

Implementation of legislation:

8. There is no statutory regulation body for media in the country. The Information and Communications Act (2009) issues broadcast licenses. The Minister for Information and Communication has the power to grant or deny licenses.¹⁰

Safety of Journalists:

9. Since 2008, UNESCO recorded no killing of journalists in Gambia.

III. Review and specific recommendations

A. Education

10. During the last UPR cycle, the Gambia received recommendations to: invest further in education and training, continue to promote access to education and ensure the education system is of good quality, construct new schools and education centres to increase enrolment further, focus on providing further education to persons with disabilities, reduce the illiteracy rate.

Policy framework

- The **Education Sector Strategic Plan (ESSP) 2016-2030** has five priority areas:¹¹
 - a) Increased access to education especially for those in difficult rural pockets, the poor, females, illiterate youths and adults, mentally and physically impaired;
 - b) Provision of quality education through expansion of school places at the Upper Basic Education and higher levels, increased supply of qualified and trained teachers, improved

⁸ <https://www.mediadefence.org/news/gambia-mixed-result-supreme-court-delivers-judgment-important-constitutional-challenges-free>

⁹ <http://www.itwebafrica.com/ict-and-governance/375-gambia/244251-gambian-court-rules-against-law-on-false-publication-on-the-net>

¹⁰ <http://allafrica.com/stories/201307171669.html>

¹¹ The Education Sector Strategic Plan 2016-2030, p. 89. <http://www.edugambia.gm/data-area/publications/policy-documents/256-education-policy-2016-2030-web-version/download.html>

curriculum, increased provision of teaching and learning materials, increased use of national languages in grades 1-3;

- c) Expansion of improved skills training that is better aligned with the labour market;
 - d) Expansion and improvement of tertiary and higher education to meet international standards and to supply high-level professionals and technical specialists to meet national and regional demands;
 - e) Strengthening sector management through decentralization/de-concentration to regional levels, further upgrading policy and planning capabilities, introducing more effective fiduciary arrangements along with the necessary implementation capacity and upgrading monitoring and evaluation systems and capacity.
- The Gambia has reviewed its ESSP to align it with the SDG4-Education 2030 timeframe.

Spending

- It should be noted that the new government is highly committed to providing free basic education for all but a serious lack of resources has made implementation difficult.
- The Gambia spends 3.1% of its GDP and 10.4% of total expenditure goes on education.¹²

Access to education

- UNCT noted an increased access to inclusive and equitable quality and relevant education for all with special focus on the most vulnerable.¹³
- UNDAF found that Primary completion rates have almost doubled between 1990 and 2016 (from 44% to 75%). Similarly, progress is being made at the Early Childhood Development (ECD) level, as enrolment has steadily increased over the past 4 years from 36.5% to 45.8% in 2016. However in secondary education less than 60% completed lower secondary and less than 40% completed upper secondary school. The situation is more challenging in Upper River region where less than 10% completed upper secondary school.
- The Gambia has abolished fees in all public lower basic, upper basic, and secondary schools.¹⁴ As a result, increases in enrolment at all levels was noted in the period 2012-2015,¹⁵ and universal primary education has been achieved.¹⁶
- A non-discriminatory loan scheme for university and TVET has been established.
- Women and children from disadvantaged groups continue to be the most marginalized, and most affected by hidden costs in education. Disparities exist between rural and urban areas in terms of access to education, quality and adequacy of school infrastructures.¹⁷
- UNDAF found marked differences in access to education across the regions mirroring regional poverty patterns. Almost 100% of students who enter grade 7 complete grade 9 in Region 1, less than 25% of students who enter grade 7 complete grade 9 in Region 6.¹⁸

¹² Global Education Monitoring Report 2019 p. 281. <https://en.unesco.org/gem-report/report/2019/migration>

¹³ Information provided by UNESCO Field Office in Dakar

¹⁴ 9th Consultation State Report on the Convention & Recommendation against Discrimination in Education, p. 5. <http://www.unesco.org/education/edurights/media/resources/file/Gambia.pdf>

¹⁵ Ibid, p. 13.

¹⁶ The Education Sector Strategic Plan “ESSP” 2016-2030, p. 9. <http://www.edugambia.gm/data-area/publications/policy-documents/256-education-policy-2016-2030-web-version/download.html>

¹⁷ Information provided by UNESCO Field Office in Dakar

¹⁸ Ibid.

- World Bank stated that 1/3 of primary and lower secondary school age children were out of school in 2015.¹⁹

Quality of education

- Quality of education remains an issue, precipitated by a massive expansion of the school system. Students' learning outcomes are generally very poor, with 76% of candidates failing to obtain a single credit in any of the four core subjects in Basic Education Certificate Examination.²⁰
- The main factors negatively impeding scores are repetition, absenteeism and class size. The availability of textbooks, the electrification of schools and improved teaching practices are seen to have the greatest positive effect.²¹
- The number of teachers has increased significantly, and the qualified teacher – pupil ratio is improving.²²

Literacy

- There are 686 literacy centres providing education services for about 49,145 (around 8.8% of the population aged 15 years and above).²³

Prevention of discrimination

- Measures to eliminate and prevent discrimination include: incentivizing teachers to hard-to-reach areas; ensuring curriculum content is non-discriminatory; provision of special WASH facilities to female students; a flexible calendar; re-entry programme for girls; school feeding programme; flexible transport services; education for juvenile offenders; conditional cash transfers.²⁴

Gender

- Gender parity has been achieved in enrolment across basic and secondary education. Efforts are being intensified to extend this gain to tertiary and higher education levels through the provision of scholarships and sponsorships to female students, particularly in STEM disciplines.²⁵
- Many girls do not complete secondary education, often due to poverty and perceived job opportunities,²⁶ to child marriages and the persistence of early pregnancies.²⁷ Gender and age-appropriate sexual and reproductive health education is lacking in schools. Cases of sexual harassment are frequent.²⁸

¹⁹ Information provided by UNESCO Field Office in Dakar

²⁰ ESSP, p. 17.

²¹ Ibid, p. 18.

²² Ibid, p. 18-19.

²³ Ibid, p. 16.

²⁴ Ibid, p. 6.

²⁵ Ibid, p. 10

²⁶ The Education Sector Strategic Plan 2016-2030, p. 20.

²⁷ Information provided by UNESCO Field Office in Dakar

²⁸ Ibid.

- Women teachers are under-represented, representing 37.5, 23.7 and 11.3 per cent of teaching staff in LBS, UBS and SSS public education sectors.²⁹

Specific recommendations:

11. The Gambia should be encouraged to:
 1. Continue the process of formal ratification of the Convention against Discrimination in Education.
 2. Develop its legislative framework on education to guarantee the right to education for all and consult with UNESCO regarding the implementation of any new legislation.
 3. Increase efforts to improve equal access to education for all, especially vulnerable groups such as women and girls, minorities, children with disabilities and those from rural and poor areas, and address illiteracy and out of school children.
 4. Tackle the problem of female dropout, including the effective implementation of Section 27 and Section 28 of the Women's Act 2010 which prohibit the expulsion of girls from school due to pregnancy and the withdrawal of girls from school for the purpose of marriage, respectively.³⁰
 5. Improve the quality of education and ensure for the sustainable expansion of the education system, in particular in rural areas, including by: ensuring the adequacy of school infrastructures, increasing the number of qualified teachers, increasing the availability and relevance of textbooks and other resources, all with the aim to increase students' learning outcomes.
 6. Increase spending on education to reach the Education 2030 target of 4-6 % of GDP and/or 15-20 % of total expenditure.
 7. Submit regularly comprehensive national reports for the periodic consultations on UNESCO's education-related standard-setting instruments, and notably on the Convention against Discrimination in Education.
 8. Share with UNESCO any relevant information to update its country profile on UNESCO's Observatory on the Right to Education.³¹

B. Freedom of opinion and expression

12. The Government is encouraged to create an independent regulator of the broadcasting sector.

²⁹ Ibid p. 63

³⁰ Women's Act 2010 Section 27 and 28. <http://www.ilo.org/dyn/natlex/docs/MONOGRAPH/90619/115464/E-1335047347/GMB90619.pdf>

³¹ <http://www.unesco.org/education/edurights/index.php?action=countries&lng=en>

13. The Government is encouraged to fully implement the Constitutional Court’s decisions, and in particular continue decriminalizing defamation, reforming provisions on sedition, and repealing regulation regarding publication of false information over the internet.

14. The Government is encouraged to redraft media legislation in line with international standards as part of its own initiative outlined in the Strategic Framework for Media Reform in The Gambia.

15. The Government is encouraged to introduce freedom of information legislation.

C. Cultural rights

16. As a State Party to the Convention concerning the Protection of the World Cultural and Natural Heritage (1972)³², the Convention for the Safeguarding of the Intangible Cultural Heritage (2003)³³ and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)³⁴, Gambia 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, Gambia 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.

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

17. **Gambia** did not submit 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 **Gambia** is encouraged to report to UNESCO in future on the implementation of the newly adopted Recommendation on Science and Scientific Researchers (2017), which supersedes the 1974 Recommendation, on any legislative or other steps undertaken by it 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 science, the principle of non-discrimination, including urging active promotion of women and girls entering scientific careers, as well as the scientists’ rights of autonomy, freedom of research, expression and publication.

³² Periodic Report available at: <http://whc.unesco.org/archive/2011/whc11-35com-10Ae.pdf>

³³ Periodic Report not available

³⁴ Periodic Report not available