

Universal Periodic Review (41st session)

Contribution of UNESCO

India

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 14 November 1977 Committee Member (1985-1991 ; 2001-2007 ; 2011-2015 ; 2021-2025)			Right to take part in cultural life
Convention for the Safeguarding of the Intangible Cultural Heritage (2003)	Ratification on 9 September 2005 Committee Member (2006-2010 ; 2014-2018)			Right to take part in cultural life
Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)	Ratification on 15 December 2006 Committee Member (2007-2010)			Right to take part in cultural life

II. Promotion and protection of human rights on the ground

A. Education

1. The Constitution of India of 1949 as last amended in 2020¹ does not enshrine the right to education in all its dimensions but provides for free and compulsory education to all children from six to fourteen years (article 21A). It further guarantees non-discrimination in its article 15.
2. The Right of Children to Free and Compulsory Education Act of 2009 as last amended in 2019² sets in its article 3 that “every child of the age of six to fourteen years shall have a right to free and compulsory education in a neighborhood school till completion of elementary school”. Article 8 states that the term compulsory education refers to the “obligation of the appropriate government to ensure compulsory admission, attendance and completion of elementary education by every child of the age of six to fourteen”. Article 8 also states that the government “shall provide free [...] elementary education to every child”. Article 9 provides that “every local authority shall provide free and compulsory elementary education to every child”.

B. Freedom of opinion and expression

Constitutional and Legislative Framework:

3. Freedom of speech and expression is protected under the Constitution (Article 19 1.a).³
4. The Right to Information Act (RTI Act 2005) guarantees access to information.⁴ The Central and State Public Information Offices implement the Act and authorize the release of requested information under the Act. The full implementation of the RTI Act stumbles on existing legislation, such as the Official Secrets Act of 1923 (OSA 1923).⁵ Section 3 (c) of the 1923 Official Secrets Act has been used to prosecute media houses and journalists.⁶

¹ [link](#)

² <http://www.unesco.org/education/edurights/media/docs/cafd199b85a3670643f7091fb21787180bb9ce7b.pdf>

³ https://www.constituteproject.org/constitution/India_2015?lang=en

⁴ <https://rti.gov.in/rti-act.pdf>

⁵ http://orissasoochanacommission.nic.in/Official%20Secret%20Act_1923.PDF

⁶ https://www.thehindu.com/news/resources/article26793859.ece/BINARY/Rafale-Review-Judgement_10-Apr-2019.pdf

5. India did not respond to UNESCO’s annual survey aimed to assess implementation of RTI Act guarantees, mandated by the Decision on Monitoring and Reporting on SDG Indicator 16.10.2 (on public access to information) adopted by the Intergovernmental Council of the International Programme for the Development of Communication at its 31st session in November 2018.⁷
6. The Whistle Blowers Protection Act, 2014,⁸ provides a mechanism for investigating corruption and misuse of power by public servants and protects whistleblowers who expose wrongdoing in Government bodies, projects and offices. However, it does not cover journalism sources. The Indian Penal Code⁹ (Sections 500 to 502) criminalizes defamation and libel.
7. Section 69A of the Information Technology Act (ITA) of 2000¹⁰ permits surveillance and criminalizes online information intended to cause “annoyance or inconvenience”. Under the ITA, the Government has the authority to block content whenever it is in the “national interest” to do so. The 2000 Information Technology Act, through section 66A, imposes punitive measures for sending offensive messages by means of a computer resource or a communication device.
8. Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules of 2021¹¹, regulate operations of intermediaries and digital media, and prescribe “due diligence by intermediaries and grievance redressal mechanism”. The 2021 Information Technology Rules, through Section 4 (2), require social media intermediaries to track and identify the first originator of information on their computer resources if ordered by authorities. Furthermore, there are concerns that the law uses vague terminology when providing grounds for online content restriction (Section 3 (1b)) and that there are no procedural safeguards for requests by law enforcement agencies for information possessed by intermediaries (Section 3 (1j)).

Implementation of the law:

9. The Telecom Regulatory Authority of India (TRAI) as well as the Electronic Media Monitoring Centre of belonging to the Ministry of Information and Broadcasting, regulate broadcast media. The latter monitors all TV channels and Private FM

⁷ <https://unesdoc.unesco.org/ark:/48223/pf0000374637/PDF/374637eng.pdf.multi>

⁸ <https://legislative.gov.in/sites/default/files/A2014-17.pdf>

⁹ <https://legislative.gov.in/sites/default/files/A1860-45.pdf>

¹⁰ <http://www.dot.gov.in/act-rules/information-technology-act-2000>

¹¹ <https://mib.gov.in/sites/default/files/IT%28Intermediary%20Guidelines%20and%20Digital%20Media%20Ethics%20Code%29%20Rules%2C%202021%20English.pdf>

Channels to check any violation of the Programme and Advertisement Code. Cable television networks are regulated by the Cable Television Networks (Regulation) Act, 1995.¹²

10. The Ministry of Communications and Information Technology regulates online content. It also manages spectrum allocation, develops internet policies and issues licenses for internet providers.

Safety of journalists:

11. As of February 2022, UNESCO has recorded 51 killings of journalists in India, since the Organization began systematic monitoring in 2006.¹³ Since 2018, the Government has not provided information about judicial processes regarding the killings to UNESCO. The country has not established a specific national mechanism for the protection of journalists.

III. Review and specific recommendations

Education

Legislative, regulatory and policy framework:

- The National education policy 2020¹⁴ aims to address the many growing developmental imperatives of India, proposing the revision of all aspects of the education structure, including its regulation and governance, to create a new system that is aligned with the aspirational goals of 21st century education, including SDG4, towards a quality, inclusive and fair educational system. The policy notably envisages that the existing 10+2 structure in school education will be modified with a new pedagogical and curricular restructuring of 5+3+3+4 covering ages 3-18. Children in the age group of 3-6 are now included in the new structure and this is aimed at promoting better overall learning, development, and well-being. Multilingualism is also encouraged, with the home/local language to be taught at least until Grade 5, but preferably beyond. A regulatory system for higher education will now fall under one umbrella institution, the Higher Education Commission of India (HECI). Furthermore,

¹² <http://www.wipo.int/edocs/lexdocs/laws/en/in/in033en.pdf>

¹³ [UNESCO observatory of killed journalists - India | UNESCO](#)

¹⁴ https://planipolis.iiep.unesco.org/sites/default/files/ressources/india_nep_final_english.pdf

the rigid separation of disciplines has been removed in order to eliminate harmful hierarchies among, and silos between, different areas of learning.

- The Transgender Persons (Protection of Rights) Act, 2019 (Act No. 40 of 2019)¹⁵, chapter VI sets the obligation of educational institutions to provide inclusive education to transgender persons, as well as vocational-training and employment.
- The Draft National education policy 2019¹⁶ aims to create a new system aligned with aspirational goals of education, not only focusing on the access and equity aspects of education, but also its quality.
- The Chapter on Elementary Education (SSA & Girls Education) for the XIth Plan Working Group Report¹⁷, 2019, sets the overview of girls' enrolment in education levels, by age, and provides recommendations and strategies for the State to improve quality and the inclusion of all children in every school.
- The Right of Children to Free and Compulsory Education Amendment Act¹⁸ of 2019 notably provides that no child shall be expelled from a school until the completion of elementary education, among other rules for examinations at the fifth and the eighth classes.

Free and compulsory education

- In line with recommendation N°161.63 of the last UPR cycle, India endeavored to expand the scope of the Right of Child to Free and Compulsory Education Act. Elementary education in India, which corresponds to primary and lower secondary education under International Standard Classification of Education, is compulsory and free of charge for a period of eight years, which is not in line with the Education 2030 Framework for Action that requires States to ensure twelve years of free education, of which nine must be compulsory.

Pre-primary education

¹⁵https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=111096&p_country=IND&p_count=480&p_classification=01&p_classcount=69

¹⁶https://planipolis.iiep.unesco.org/sites/default/files/ressources/india_draft_nep_2019_en_revised.pdf

¹⁷https://planipolis.iiep.unesco.org/sites/default/files/ressources/india_elementary_education_11_plan.pdf

¹⁸<http://www.unesco.org/education/edurights/media/docs/d2e5face8ebb36f8f990ac21f4682c99433e5c.pdf>

- The Right of Children to Free and Compulsory Education Act of 2009 as last amended in 2019 does not guarantee free nor compulsory pre-primary education. It only specifies that the Government may make necessary arrangements to provide it for free. It is not aligned with the Education 2030 Framework for Action that requires States to ensure at least one year of free and compulsory quality pre-primary education.

Right to education of pregnant and parenting girls

- No legal provision has been identified relating to the right to education of pregnant and parenting girls.

Violence within educational institutions

- In line with the recommendation N°161.234 of the last UPR cycle, India puts efforts to introduce comprehensive education on the harmful effects of corporal punishment. The Right of Children to Free and Compulsory education Act of 2009 as last amended in 2019 provides a certain level of protection against corporal punishment, but the provision does not apply to all educational institutions throughout the country. No other provisions regarding protection from other kinds of violence, including gender-based violence, in educational institutions, have been identified.

Access to education

- Despite the steady expansion of access to education especially at the primary, secondary education level and above, India still has a significant number of out-of-school children and youths as well as illiterates due to its sheer population size. In 2019, 34.2 percent of Indian youth aged 15-29 are not in education, employment, or training.¹⁹ India also faces persisting disparity in terms of access to and quality of education.

Digital education

- UNESCO's initiative on the [Evolving Right to Education](#) raises the importance of digital inclusion and digital skills. India launched several initiatives to implement digital tools for education to continue to increase the digital skills of teachers, such as

¹⁹ https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-new-delhi/documents/publication/wcms_789243.pdf

the Teacher Capacity Building programmes the “National Initiative for School Heads and Teachers Holistic Advancement” (NISHTHA) online, or the “PRAGYATA guideline on Digital Education”.²⁰

- In a letter from the Secretary, Depts of Higher Education/School Education and Literacy to the Chief Secretary, regarding Digital/e-learning²¹, 2020, noting the extraordinary need for digital learning notably as a measure to fight the effects of the pandemic, it was requested to disseminate information on several free platforms and facilities enabling teachers and students to continue learning effectively.
- India expanded digital tools, like the “DIKSHA under PM eVIDYA”, to ensure availability of quality e-content through one single platform for students of all grades and teachers, and expanded textbooks with QR codes mapped /tagged with e-content for grades 1 to 12. India has also notably extended the content on radio, community radios and podcasts, and created e-content for visually and hearing-impaired students.
- In order to promote online degree programme, the University Grants Commission (UGC), which is a regulatory body for Higher Education in India, revised its Regulation. Post revision, the number of institutions eligible for offering online degree programme has increased.²² In conventional programmes (face to face), the existing limit of transfer of credit up to 20% from online courses has been increased up to 40%.²³

COVID-19 pandemic

- The COVID-19 response in school education: action plan, for access, retention, continuous learning, capacity building and stakeholder engagement²⁴, 2021, sets several phases to follow to prevent dropouts, support schools, track children and their learning levels, mitigate learning loss, help teachers, develop effective home-learning programmes and parents’ involvement, community, local self-governments etc.
- Several initiatives in the school year 2020-21 were taken to ensure that students do not lag behind in their studies during the pandemic. These included consultations organized by the Ministry of Education with the States at various levels and budgetary

²⁰ https://www.education.gov.in/sites/upload_files/mhrd/files/pragyata-guidelines_0.pdf

²¹ https://planipolis.iiep.unesco.org/sites/default/files/ressources/india_digital_learning_covid19.pdf

²² <https://timesofindia.indiatimes.com/india/ugc-to-let-900-autonomous-colleges-offer-online-degrees/articleshow/89710850.cms>

²³ <https://www.timesnownews.com/education/article/ugc-issues-guidelines-regarding-online-courses-allows-universities-to-offer-40-semester-courses-on-swayam/738791>

²⁴ https://planipolis.iiep.unesco.org/sites/default/files/ressources/india_covid_action_plan.pdf

allocations for various interventions. Also, several guidelines were issued, such as the Learning Enhancement Guidelines for Continuous Learning²⁵ or the Guidelines for School re-opening on Learning with Social Distancing.²⁶

Specific recommendations:

12. India should be encouraged to:

- Ratify the Convention against Discrimination in Education of 1960.
- Align its legislation with the Education 2030 Framework for Action that requires States to ensure at least twelve years of free primary and secondary education, of which at least nine are compulsory and one year of free and compulsory pre-primary education.
- Consider including an explicit prohibition of all violence, including gender-based violence, in educational settings in the legislation.
- Continue enhancing the digital inclusion of learners while ensuring their protection online.
- Introduce legal protection for parenting and pregnant women.
- 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.
- Share with UNESCO any relevant information to update its country profile on UNESCO's [Observatory on the Right to Education](#) and [Her Atlas: Monitoring the right to education for girls and women](#).

B. Freedom of opinion and expression

13. The Indian Government is urged to continue to investigate the cases of killed journalists, and to voluntarily report on the status of judicial follow-up to UNESCO. The government may wish to make use of the UN Plan of Action on the Safety of Journalists and the Issue of Impunity, as well as of capacity building activities with the judiciary, to strengthen the protection of journalists and freedom of expression.

²⁵ https://ncert.nic.in/pdf/announcement/Learning_%20Enhancement_Guidelines.pdf

²⁶ https://www.education.gov.in/sites/upload_files/mhrd/files/SOP_Guidelines_for_reopening_schools.pdf

14. It is recommended that India decriminalize defamation and libel and place it within a Civil Code that is in accordance with international standards.
15. It is recommended that India amend the 2000 Information Technology Act (ITA) and the 2021 Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules to provide for greater privacy online and narrowly defined considerations for the surveillance and blocking of online content.
16. It is recommended that India review the 2014 Whistle Blowers Protection Act, to include the protection of the anonymity of journalists' sources as also recommended by the Law Commission of India.²⁷
17. India is encouraged to co-operate with UNESCO's annual survey instrument to measure global progress on access to information, and consider including relevant information in their Voluntary National Reviews under the SDGs.

C. Cultural Rights

18. 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), India is encouraged to fully implement the relevant provisions that promote access to and participation in cultural heritage and creative expressions which 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, India is encouraged to give due consideration to the participation of communities, practitioners, cultural actors and civil society organizations 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.

²⁷ <https://lawcommissionofindia.nic.in/51-100/Report93.pdf>

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

19. India did not submit its National Report on the implementation of the Recommendation on Science and Scientific Researchers (2017) for the consultation period from 2018 to 2021. Therefore, India is encouraged to report to UNESCO on its implementation actions, especially noting legislative or other measures adopted by it with the aim to ensure application of these norms and standards in national law, policy and practice, paying particular attention to the legal provisions and regulatory frameworks which ensure the implementation of human rights of scientific researchers themselves (rights of association, freedom of research, expression and publication, etc.) as well as human rights obligations related to the practice of science generally; the human rights related to access to and uses of scientific knowledge through education; the principle of non-discrimination, requiring, in this case, active promotion of women and girls entering scientific careers, as well as protections for human rights of human subjects of research. India reported in their previous UPR cycle the implementation of schemes and measures that promote higher education for marginalized groups, especially in science and mathematics. Against this background, India is encouraged to continue to provide and expand input on issues covered by the 2017 Recommendation in its national report to the UPR to allow further discussions at the Human Rights Council and the formulation of specific recommendations. Additionally, India is urged to consider expanding the scope of application of freedom of expression to include scientists and scientific researchers.