



UGANDA: A BRIEF ON EQUALITY AND NON-DISCRIMINATION,
CHILD MARRIAGE, AND EDUCATION
(CRC ARTICLES 2, 19, 24, 28, 34, AND GENERAL COMMENT
4)

*Information for the Committee on the Rights of the Child
100th Pre-Sessional Working Group, February 2025*

Submitted By

The WORLD Policy Analysis Center
University of California, Los Angeles



TABLE OF CONTENTS

Introduction1

Summary of Findings and Recommendations.....2

1. General Principles: Equality and Non-Discrimination (Article 2)2

2. Special Protection Measures: Child Marriage (Articles 19, 24, 28, 34, and General Comment No. 4)2

3. Special Protection Measures: Education, Leisure and Cultural Activities (Article 28)3

Detail of Constitutional and Legislative Findings5

1. General Principles: Equality and Non-Discrimination (Article 2)5

2. Special Protection Measures: Child Marriage (Articles 19, 24, 28, 34, and General Comment No. 4)6

3. Special Protection Measures: Education, Leisure and Cultural Activities (Article 28)8



INTRODUCTION

The WORLD Policy Analysis Center, based at the University of California, Los Angeles, captures quantitative policy data on more than 2,500 indicators that matter to equality, health, and well-being. We strive to improve the quantity and quality of globally comparative data available to policymakers, citizens, national governments, intergovernmental organizations, civil society, and researchers for all 193 UN member states. We submit the following brief in advance of the 100th Pre-Sessional Working Group of the Committee on the Rights of the Child.

This brief will focus on the following areas:

- General Principles: **Equality and Non-Discrimination**
- Special Protection Measures: **Child Marriage**
- Special Protection Measures: **Education, Leisure and Cultural Activities**

We have collected and analyzed information on rights, laws, and policies in these areas for all 193 UN member states (150 in the case of detention based on immigration status) using a variety of sources, including primary national legal sources (e.g. original legislation and constitutions), national reports on policies and laws to the United Nations and official global and regional bodies, and secondary sources where clarification or corroboration of primary data is needed. Using a rigorous double-coding process, we create original databases which distill thousands of pages of text to highlight the essential features of each right, law, or policy. These original databases are the reference for the following brief. When drafting each brief, we perform a series of additional verifications to ensure the data provided reflects the current available information on the constitutional and legal landscape of a country.

In this report we first provide a summary of our constitutional and legislative findings, as well as suggested questions for the Committee to ask Uganda, and topics we hope the Committee will address in its concluding observations. This summary is followed by detailed constitutional and legislative excerpts documenting our findings. We hope the Committee will recommend that Uganda address any gaps in consultation and collaboration with relevant stakeholders, including civil society organizations. We also recognize that while having strong laws and policies in place are necessary first steps, implementation is also of paramount importance. In areas where we have commended Uganda for having provisions in place, we hope the Committee will recommend that Uganda work with stakeholders to overcome any obstacles in implementing these provisions.



SUMMARY OF FINDINGS AND RECOMMENDATIONS

1. General Principles: Equality and Non-Discrimination (Article 2)

Our review of full-text national constitutions found that Uganda's constitution explicitly guarantees equality and non-discrimination broadly and on the basis of all groups and statuses listed in the Convention, **with the exception of language and foreign national origin.**

RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS

We hope the Committee will:

- In its list of issues, ask Uganda: have Uganda's constitutional provisions on general equality and non-discrimination been interpreted, through case law or otherwise, to cover discrimination on the basis of language or foreign national origin?
 - If they have not, can Uganda outline any concrete, near-term plans to amend its constitution to prohibit discrimination on the basis of language and foreign national origin?
 - If Uganda cannot, recommend in its concluding observations that Uganda amend its constitution to explicitly prohibit discrimination on the basis of language and foreign national origin, consistent with CRC commitments. This could be added to Article 21 of the constitution, which already prohibits discrimination on the basis of other CRC-protected groups and statuses.

2. Special Protection Measures: Child Marriage (Articles 19, 24, 28, 34, and General Comment No. 4)

Uganda's legislation generally prohibits marriage before age 21; however, separate pieces of legislation regarding customary and religious marriage provide for different minimum age frameworks. For some Ugandan girls and boys, depending on their community of origin, there is no minimum age of marriage. Child marriage rates in the country are high: 7% of women surveyed married before age 15, 34% of women surveyed married before age 18, and 20% of girls aged 15-19 were already married at the time of survey.¹ A comprehensive Marriage Bill is under consideration in Parliament; the Bill's text as of October 2024 would set the minimum age of marriage at 18 without exceptions, and would explicitly apply to customary and religious marriages.

¹ UNICEF data – Child Marriage. Retrieved November 7, 2024 from <https://data.unicef.org/topic/child-protection/child-marriage/>



RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS

We hope the Committee will:

- In its list of issues, ask Uganda: Can Uganda confirm that the new Marriage Bill will prohibit marriage under the age of 18 for both boys and girls in all circumstances, and provide the Committee with a timeline for its passage?
 - If Uganda cannot confirm that the new Marriage Bill will prohibit marriage under the age of 18 in all circumstances, recommend in its concluding observations that Uganda introduce this prohibition before the bill's passage.
 - Recommend in its concluding observations that Uganda pass Marriage Bill 2024, which was tabled for First Reading on October 2024 (or a law of equivalent strength), including the prohibition of marriage under the age of 18 in all circumstances, as expeditiously as possible.

3. Special Protection Measures: Education, Leisure and Cultural Activities (Article 28)

Our research shows that Uganda's legal framework provides for free and compulsory primary education for seven years. Despite these legal guarantees, as of 2019, 8% of all Ugandan children of primary school age were out of school.² We also found no evidence of free secondary education in Uganda, although the country's non-discrimination legislation does protect against sex discrimination in education specifically.

² UNESCO Institute for Statistics. SDG 4 September 2024 Country Dashboard. Accessed November 7, 2024, at: <http://sdg4-data.uis.unesco.org/>



RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS

We hope the Committee will:

- In its list of issues, ask Uganda: Given the current out-of-school rates for primary students, can Uganda provide any information on what concrete measures it is taking to effectively implement its free and compulsory education provisions?
 - If Uganda does not have concrete measures in place, recommend in its concluding observations that Uganda develop a concrete, near-term plan to effectively enforce its legal commitment to provide primary education that is both free and compulsory.
- In its list of issues, ask Uganda: does Uganda have concrete, near-term plans to implement free secondary education, through either legislation or government policy?
 - If Uganda does not have concrete, near-term plans in place, recommend in its concluding observations that Uganda pass and implement free secondary education through either legislation or government policy.



DETAIL OF CONSTITUTIONAL AND LEGISLATIVE FINDINGS

While the following review is systematic and rigorous, we recognize that there may be laws or policies governing these areas that we have not captured, including new legislation or policies that have not yet been published globally.

1. General Principles: Equality and Non-Discrimination (Article 2)

Article 2.1 of the Convention states that:

States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

Constitutions state the values of a country, outlining the rights of people living within the country and profoundly influencing norms and practices. In nearly all countries, constitutions take precedence over other sources of law—making them critical tools for delineating and implementing equal rights. New constitutions and new rights guaranteed in constitutions can be used to overturn discriminatory laws, as well as to legislate non-discrimination guarantees. Moreover, constitutions can offer protection against policy and legal changes during periods of social and political shifts that may seek to undermine equal rights. For these reasons and others, as the foundational document setting out the rights of all human beings in a country, a constitution and the rights contained therein are essential to realizing equal rights.

We reviewed full text constitutions for all 193 UN member states available from official government sources to determine whether the constitution took any approach to equality across the grounds listed in article 2.1 of the CRC by prohibiting discrimination based on each specific status, guaranteeing equal rights, guaranteeing equality before the law, or guaranteeing overall equality or equal opportunities.

UGANDA'S CONSTITUTIONAL PROVISIONS: MISSING EXPLICIT GUARANTEES OF EQUALITY AND NON-DISCRIMINATION BASED ON LANGUAGE AND FOREIGN ORIGIN

Our review of full-text constitutions found that Article 1 of Uganda's Constitution grants equality before the law to all Ugandans, and prohibits discrimination generally as well as on the basis of almost all Convention grounds. However, some groups that are guaranteed equality in the Convention are not covered by this constitutional provision – specifically, children facing discrimination based on language and foreign national origin.

Constitution of Uganda, amended to 2018



21. Equality and freedom from discrimination

1. All persons are equal before and under the law in all spheres of political, economic, social and cultural life and in every other respect and shall enjoy equal protection of the law.

2. Without prejudice to clause (1) of this article, a person shall not be discriminated against on the ground of sex, race, colour, ethnic origin, tribe, birth, creed or religion, or social or economic standing, political opinion or disability.

(...)

2. Special Protection Measures: Child Marriage (Articles 19, 24, 28, 34, and General Comment No. 4)

General Comment No. 4 (2003) states that:

The Committee strongly recommends that States parties review and, where necessary, reform their legislation and practice to increase the minimum age for marriage with and without parental consent to 18 years, for both girls and boys.

Child marriage has life-long health, educational, and economic consequences. For girls in particular, child brides are more likely to drop out of school, be victims of domestic abuse, and experience pregnancy and childbirth complications due to early childbearing, all of which affect core rights of the Convention, specifically the right to protection from violence (Article 19), the right to health (Article 24), the right to education (Article 28), and the right to protection from sexual exploitation and abuse (Article 34).

We systematically reviewed national civil codes and child-related legislation for all 193 UN member states to determine whether national legislation established a minimum age of marriage for both girls and boys generally, with parental consent, and under religious and customary law. We reviewed all legislation available through the Lexadin World Law Guide, Foreign Law Guide, International Labour Organization's NATLEX database, Pacific Islands Legal Information Institute, Asian Legal Information Institute, JaFBASE, and official country websites.

UGANDA'S LEGISLATIVE PROVISIONS: EXCEPTIONS PERMIT CERTAIN MARRIAGES AT ANY AGE

Uganda's Marriage Act sets 21 as the minimum age of marriage for both sexes, with parental consent necessary to marry at age 18; however, separate pieces of legislation for customary and religious



marriages set younger ages. Muslim marriages, for example, are formally exempted from the Marriage Act, and are not subject to any minimum age provisions.

Marriage Act, consolidated to 2013

17. Consent to marriage of minors.

If either party to an intended marriage, not being a widower or widow, is under twenty-one years of age, the written consent of the father, or if he is dead or of unsound mind or absent from Uganda, of the mother, or if both are dead or of unsound mind or absent from Uganda, of the guardian of that party, must be produced annexed to the affidavit as required by section 10 before a licence can be granted or a certificate issued.

Customary Marriage Registration Act, consolidated to 2013

11. Void marriages.

A customary marriage shall be void if—

a) the female party to it has not attained the age of sixteen years;

b) the male party to it has not attained the age of eighteen years;

(...)

Marriage and Divorce of Mohammedans Act 1906

1. Marriage Act and Marriage of Africans Act not to apply in certain cases.

The Marriage Act and the Marriage of Africans Act shall cease to apply to the celebration of marriages between persons both of whom profess the Mohammedan religion, and neither of whom is a party to an existing marriage, under or declared valid by those Acts, with any person other than a Mohammedan.

2. Mohammedan marriages and divorces.

All marriages between persons professing the Mohammedan religion, and all divorces from such marriages celebrated or given according to the rites and observances of the Mohammedan religion customary and usual among the tribe or sect in which the marriage or divorce takes place, shall be valid and registered as provided in this Act.



The last recorded child marriage rates in the country are high: 7% of surveyed women married before age 15, 34% of surveyed women married before age 18, and 20% of girls aged 15-19 were already married at the time of survey.³

Our research shows that a unified Marriage Bill is under consideration in Parliament but had not yet passed as of October 2024; the Bill's text as of October 2024 would set the minimum age of marriage at 18 without exceptions, and would explicitly apply to customary and religious marriages.

3. Special Protection Measures: Education, Leisure and Cultural Activities (Article 28)

Article 28.1 of the CRC recognizes a child's right to education, and specifically orders States Parties to "make primary education compulsory and available free to all" as well as to "[e]ncourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education." Article 2.1, referenced above, compels States Parties to ensure that these rights are enjoyed without discrimination on the basis of sex.

For all 193 UN member states, we systematically reviewed education acts and child protection laws available online through UNESCO's Observatory on the Right to Education Library and International Labour Organization's NATLEX database. Through the review we determined whether national legislation guaranteed free and compulsory primary and secondary education. We also determined whether sex discrimination in education is prohibited by law.

UGANDA'S LEGISLATIVE PROVISIONS: PRIMARY EDUCATION IS FREE AND COMPULSORY, BUT ENROLMENT LAGS BEHIND

Uganda makes primary education free and compulsory for seven years.

The Education (Pre-Primary, Primary and Post-Primary) Act of 2008

9. Prohibition of charging for education in UPE or UPPET.

(1) No person or agency shall levy or order another person to levy any charge for purposes of education in any primary or post primary institution implementing UPE or UPPET programme.

(2) The provisions of subsection (1) shall not be construed to deter the management of any school or institution implementing UPE or UPPET programme from collecting or receiving

³ UNICEF data – Child Marriage. Retrieved November 7, 2024 from <https://data.unicef.org/topic/child-protection/child-marriage/>



voluntary contributions or payments from parents and well wishers to contain a state of emergency or any urgent matter concerning the school.

(3) No pupil or student shall be sent away from a school or an institution or denied access to education for failure to pay any contribution referred to under subsection (2).

10. Levels of education.

(...)

(3) The following shall apply to primary education—

(a) primary education shall be universal and compulsory for pupils aged 6 (six) years and above which shall last seven years;

Despite these legal guarantees, as of 2019 8% of all Ugandan children of primary school age were out of school,⁴ and thus the effectiveness of these provisions remains an open question. In addition, we found no evidence that secondary education is free in Uganda.

Separately, Uganda's Equal Opportunities Commission Act prohibits sex discrimination specifically in education.

Equal Opportunities Commission Act, 2007

1. Interpretation.

In this Act, unless the context otherwise requires—

“discrimination” means any act, omission, policy, law, rule, practice, distinction, condition, situation, exclusion or preference which, directly or indirectly, has the effect of nullifying or impairing equal opportunities or marginalizing a section of society or resulting in unequal treatment of persons in employment or in the enjoyment of rights and freedoms on the basis of sex, race, colour, ethnic origin, tribe, birth, creed, religion, health status, social or economic standing, political opinion or disability;

“equal opportunities” means having the same treatment or consideration in the enjoyment of rights and freedoms, attainment of access to social services, education, employment and physical environment or the participation in social, cultural and political activities regardless of sex, age, race, colour, ethnic origin, tribe, birth, creed, religion, health status, social or economic standing, political opinion or disability;

⁴ UNESCO Institute for Statistics. SDG 4 September 2024 Country Dashboard. Accessed November 7, 2024, at: <http://sdg4-data.uis.unesco.org/>



BRIEFING PREPARED BY THE WORLD POLICY ANALYSIS CENTER, UNIVERSITY OF CALIFORNIA, LOS ANGELES