



UGANDA: A BRIEF ON THE IMPLEMENTATION OF CEDAW COMMITMENTS FROM ARTICLES 2, 5, 11, AND 16

*Information for the Committee on the Elimination of Discrimination Against Women
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INTRODUCTION

The WORLD Policy Analysis Center, based at the University of California, Los Angeles, captures quantitative policy data on more than 2,000 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 80th Pre-Sessional Working Group of the Committee on the Elimination of Discrimination against Women.

This brief will focus on the following two areas:

1. Paid Maternity and Paternity Leave (Articles 11, 5)
2. Child Marriage (Articles 16, 2)

We have collected and analyzed information on rights, laws, and policies in these areas for all 193 UN member states 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 constitutional and legal landscape of a country.

In this report we provide a summary of our findings, as well as 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 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. Paid Maternity and Paternity Leave (Articles 11, 5)

Based on our systematic review of national legislation and country reports, Uganda guarantees working mothers 60 working days of job-protected paid maternity leave, and grants working fathers four working days of job-protected paid paternity leave.

We hope the Committee will:

- In its concluding observations, recommend that Uganda increase the duration of paid maternity leave to at least 14 weeks, consistent with widely accepted standards set and endorsed by global institutions such as the ILO and UNICEF.
- In its concluding observations, recommend that Uganda increase the duration of paid paternity leave—ensuring fathers’ access to an adequate duration of paid paternity leave is foundational to increasing gender equality in caregiving responsibilities and gender equality in employment.

2. Child Marriage (Articles 16, 2)

Based on our systematic review of Uganda’s legislative and constitutional provisions, **Uganda sets the minimum age of marriage at 18 years** and requires parental consent for any person marrying under the age of 21. However, a combination of overlapping laws governing customary and religious marriages allow **girls to marry before the age of 18, and in certain conditions may allow both girls and boys to marry at any age**. As a result, Ugandan girls frequently marry before reaching the age of 18—in 2016, approximately 20% of Ugandan girls aged 15 to 19 were already married. Thirty-four percent of women aged 20 to 24 had married before the age of 18, and 7% had married before the age of 15.¹

The *Marriage Bill (2017)*, which has been in development for over a decade, attempts to harmonize these existing legislative provisions with the country’s constitution, which prohibits marriage under the age of 18. However, as of December 18, 2020, this bill has not been passed by the Ugandan parliament.

We hope the Committee will:

- In its concluding observations, recommend that Uganda pass and implement the proposed *Marriage Bill* or a similar Act that protects girls under the age of 18 from early marriage under customary and religious law, consistent with Article 31 of Uganda’s constitution and Article 16 of the Convention.

¹ UNICEF Data Warehouse. <https://data.unicef.org/dv_index/>



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. Paid Maternity and Paternity Leave (Articles 11, 5)

Article 11.2 of the Convention states that:

In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

(a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;

(b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;

Further, Article 5(b) of the Convention emphasizes the importance of including men in the upbringing of children:

To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

We systematically reviewed national labor codes and social security laws to assess the availability paid maternity and paternity leave. We relied primarily on legislation downloaded through the International Labour Organization's NATLEX database. Additionally, for confirmation or clarification on legal provisions, we consulted trusted secondary sources including the Social Security Programs throughout the World (SSPTW) database, and the International Review of Leave Policies.

UGANDA'S LEGISLATIVE PROVISIONS: NEED TO STRENGTHEN PAID MATERNITY AND PATERNITY LEAVE

Based on our systematic review of national legislation and country reports, Article 56 of the *Employment Act* guarantees **60 working days of job-protected paid maternity leave to working mothers**. Article 57 of the same law grants **working fathers four working days of job-protected paid paternity leave**:

56. Maternity Leave

(1) A female employee shall, as a consequence of pregnancy, have the right to a period of sixty working days leave from work on full wages hereafter referred to as "maternity leave", of which at least four weeks shall follow to childbirth or miscarriage.

(2) A female employee who becomes pregnant shall have the right to return, to the job which she held immediately before her maternity leave or to a reasonably suitable alternative job on terms



and conditions not less favourable than those which would have applied had she not been absent on maternity leave.

57. Paternity leave

(1) A male employee shall, immediately after the delivery or miscarriage of a wife, have the right to a period of four working days' leave from work yearly herein referred to as paternity leave.

(2) An employee referred to in subsection (1) shall be entitled to the payment of his full wages during the said paternity leave.

(3) A male employee shall, after the paternity leave, have the right to return to the job which he held immediately before his paternity leave.

2. Child Marriage (Articles 16, 2)

Child marriage disproportionately affects girls, often leading to social, economic, educational, and health inequalities, which States Parties have committed to eliminating. Article 16.2 of the Convention calls on States Parties to legislate a minimum age of marriage and prohibit the marriage of children. Additionally, disparities in the legal minimum age of marriage between girls and boys contravenes Article 2(a) of the Convention, which commits States Parties to “embody the principle of the equality of men and women” in their “national constitutions or other appropriate legislation”.

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, regional sources, and official country websites.

UGANDA’S LEGISLATIVE PROVISIONS: SOME LAWS PERMIT MARRIAGE UNDER THE AGE OF 18

Based on our review, Uganda has several laws which legislate the minimum age of marriage, some of which allow girls under the age of 18 to be married. **Article 31 of the constitution establishes a minimum age of marriage of 18 years for girls and boys.** The *Marriage Act* requires that any person under the age of 21, male or female, obtain written parental consent to be able to be legally married. There are separate laws that govern customary and religious marriages. For example, the ***Customary Marriage (Registration) Act* allows girls to be married at the age of 16.** Further, the ***Marriage and Divorce of Mohammedans Act* ensures the validity of all Islamic marriages and does not contain any provision establishing the minimum age for such marriages.**

The *Marriage Bill (2017)*, which has been in development for over a decade, attempts to harmonize these existing legislative provisions with the country’s constitution, which prohibits marriage under the age of 18. However, as of December 18, 2020, this bill has not been passed by the Ugandan parliament.



The Constitution of the Republic of Uganda

31. RIGHTS OF THE FAMILY

1. A man and a woman are entitled to marry only if they are each of the age of eighteen years and above (...)

The Marriage Act

Consent to marriage in certain cases necessary.

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

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;

(...)

32. Consent to marriage of minors.

If either party to an intended customary 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, of the mother, or if both are dead or of unsound mind, of the guardian of the party, must be produced annexed to the affidavit as aforesaid before a license can be granted or a certificate issued.



Marriage and Divorce of Mohammedans Act

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.