



Cuba

Submission by the WORLD Policy Analysis Center

To the Committee on the Rights of the Child
85th Pre-Sessional Working Group, February 2020

NGO Report

Submitted By

The WORLD Policy Analysis Center
University of California, Los Angeles



Table of Contents

Introduction	1
Summary of Key Recommendations.....	2
Detail.....	3
Special Protection Measures: Child Marriage	3
Reference Sheet: Recommended Questions for Cuba’s List of Issues.....	5
Reference Sheet: Recommended Concluding Observations for Cuba	5



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 in advance of the 85th Pre-Sessional Working Group of the Committee on the Rights of the Child.

This brief will focus on the following area:

- Special Protection Measures: **Child Marriage**

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 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 our review.

While our review is systematic and rigorous, we recognize that there may be other laws or policies relating to child marriage that we have not captured. We therefore hope the Committee will include the following questions for Cuba in its list of issues, and where applicable, make the recommendations outlined below in its concluding observations. We also hope the Committee will recommend that Cuba address any gaps in consultation and collaboration with relevant stakeholders, including civil society organizations.





SUMMARY OF KEY RECOMMENDATIONS

Where Cuba has provisions in place, but where these provisions do not appear to fully address the commitments Cuba has made through its ratification of the CRC:

Special Protection Measures: Child Marriage

Based on our systematic review of legislation and country reports as of January 2019, Cuba establishes a general minimum age of marriage of 18 years old for both girls and boys. However, girls as young as 14 and boys as young as 16 can be married with parental consent.

We hope the Committee will:

- In its list of issues, ask Cuba: Can Cuba outline any concrete, near-term plans to pass legislation that establishes a minimum age for marriage of 18 years old for both girls and boys with and without parental consent?
 - If concrete, near-term plans are not in place, recommend in its concluding observations that Cuba pass and implement legislation that establishes a minimum age for marriage with and without parental consent of 18 years old for both girls and boys.
 - In its concluding observations, also recommend that Cuba work to address gender differences in the law that give boys more protection from early marriage than girls, and to ensure that girls' protections are raised.





Detail

SPECIAL PROTECTION MEASURES - CHILD MARRIAGE

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 as of January 2019 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 Labor Organization's NATLEX database, Pacific Islands Legal Information Institute, Asian Legal Information Institute, JaFBase, and official country websites.

CUBA'S LEGISLATIVE PROVISIONS

Based on our review, the Family Code establishes a minimum age of marriage of 18 years old for both girls and boys. However, the Family Code also specifies that with parental approval girls can be married at the age of 14. In contrast, the minimum age of marriage for boys with parental consent is 16 years.

CÓDIGO DE LA FAMILIA

TÍTULO I: DEL MATRIMONIO

CAPÍTULO I: DEL MATRIMONIO EN GENERAL

SECCIÓN PRIMERA: Del Matrimonio Y De Su Constitución

ARTÍCULO 2.- (Modificado) El matrimonio es la unión voluntariamente concertada de un hombre y una mujer con aptitud legal para ello, a fin de hacer vida en común.

El matrimonio sólo producirá efectos legales cuando se formalice o se reconozca de acuerdo con las reglas establecidas en la Ley del Registro del Estado Civil.

El segundo párrafo de este artículo fue modificado por la Disposición Especial Sexta de la Ley No. 51, "Del Registro del Estado Civil", de 15 de julio de 1985 (G.O.O. No. 50 de 22 de agosto de 1985, pág 843)

ARTÍCULO 3.- (Modificado) Están autorizados para formalizar el matrimonio la hembra y el varón mayores de 18 años de edad. En consecuencia, no están autorizados para formalizar el matrimonio los menores de 18 años de edad.





No obstante lo dispuesto en el párrafo anterior, excepcionalmente, y por causas justificadas, podrá otorgarse a los menores de 18 años la autorización para formalizar el matrimonio, siempre que la hembra tenga, por lo menos, 14 años cumplidos y el varón 16 años, también cumplidos.

Esta autorización excepcional pueden otorgarla:

- 1) El padre y la madre conjuntamente, o uno de ellos si el otro hubiere fallecido o estuviere privado de la patria potestad;*
- 2) el o los adoptantes cuando el menor hubiese sido adoptado;*
- 3) el tutor, si el menor estuviere sujeto a tutela;*
- 4) los abuelos maternos o paternos, indistintamente, a falta de los anteriores, prefiriéndose a aquellos que convivan en el mismo domicilio con el menor;*
- 5) uno solo de los facultados, cuando el otro que deba darla conjuntamente con él se vea impedido de hacerlo;*
- 6) el tribunal, si por razones contrarias a los principios y normas de la sociedad socialista, se negaren a otorgar la autorización las personas facultadas para ello.*

En caso de negar la autorización alguno de los que deben otorgarla conjuntamente con otro, los interesados en contraer matrimonio o uno de ellos o un hermano o hermana mayor de edad de cualquiera de los mismos podrá instar al tribunal popular competente para que otorgue la autorización requerida.

El tribunal, en audiencia verbal, oirá el parecer de todos los interesados y del fiscal y, teniendo en cuenta el interés social y el de los contrayentes, decidirá lo que proceda sin ulterior recurso.

Este artículo fue modificado por el artículo 1 la Ley No. 9, de 22 de agosto de 1977 (G.O.O. No. 35 de 24 de agosto de 1977, pág. 481)

ARTICULO 4.- No podrán contraer matrimonio:

- 1) los que carecieren de capacidad mental para otorgar su consentimiento;*
- 2) los unidos en matrimonio formalizado o judicialmente reconocido;*
- 3) las hembras menores de 14 años y los varones menores de 16 años.*





Reference Sheet

Cuba: Recommended Questions for the List of Issues and Concluding Observations

For the Committee on the Rights of the Child

85th Pre-Sessional Working Group, February 2020

Recommended Questions for Cuba's List of Issues:

Special Protection Measures: Child Marriage

- Can Cuba outline any concrete, near-term plans to pass legislation that establishes a minimum age for marriage of 18 years old for both girls and boys with and without parental consent?
-

Recommended Concluding Observations for Cuba (where Cuba's responses to questions from the list of issues are unclear or insufficient):

Special Protection Measures: Child Marriage

We hope the Committee will:

- Recommend in its concluding observations that Cuba pass and implement legislation in the near term that establishes a minimum age for marriage with and without parental consent of 18 years old for both girls and boys.
 - Recommend in its concluding observations that Cuba work to address gender differences in the law that give boys more protection from early marriage than girls, and to ensure that girls' protections are raised.
-

*Brief prepared by the WORLD Policy Analysis Center, University of California, Los Angeles -
www.worldpolicycenter.org*

