



## Poland

Submission by the WORLD Policy Analysis Center

To the Committee on the Rights of the Child

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NGO Report

### **Submitted By**

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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 in advance of the 86<sup>th</sup> Session of the Committee on the Rights of the Child.

This brief will focus on the following two areas:

- General Principles: **Equality and Non-Discrimination**
- 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. constitutional texts, original legislation), 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 our review.

While our review is systematic and rigorous, we recognize that there may be other laws or policies governing these areas that we have not captured. We also recognize that Poland may have passed legislation or enacted new policies since our most recent review. We therefore hope the Committee will make the recommendations outlined below in its concluding observations. We also hope the Committee will recommend that Poland address any gaps in consultation and collaboration with relevant stakeholders, including civil society organizations.





## SUMMARY OF KEY RECOMMENDATIONS

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

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### A) General Principles: Equality and Non-Discrimination

Based on our review of full-text national constitutions, Poland's constitution guarantees equality before the law to all persons, and specifically guarantees equal rights between men and women. However, the constitution does not specifically guarantee equality or non-discrimination irrespective of race, colour, language, religion, political or other opinion, national, ethnic or social origin, property status, disability, or birth status.

Both constitutional and legislative guarantees of equality and non-discrimination are key components of a comprehensive anti-discrimination legal system, with the former setting a foundational and long-standing national principle, and the latter often serving as an important instrument for implementation.

#### **We hope the Committee will:**

- Recommend in its concluding observations that Poland add constitutional guarantees of equality for all persons regardless of race, colour, language, religion, political or other opinion, national, ethnic or social origin, property status, disability, or birth status, consistent with CRC commitments.

### B) Special Protection Measures: Child Marriage

Based on our systematic review of legislation and country reports as of January 2019, Poland has a minimum age of marriage of 18 years old for both girls and boys. However, girls can be married at the age of 16 with court approval.

#### **We hope the Committee will:**

- Recommend in its concluding observations that Poland pass and implement legislation that protects girls under the age of 18 from early marriage without exceptions.
  - In its concluding observations, also recommend that Poland 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

### GENERAL PRINCIPLES: EQUALITY AND NON-DISCRIMINATION

Article 2.1 of the CRC 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.*

In nearly all countries, constitutions take precedence over other sources of law—making them critical tools for overturning both newly enacted and decades-old discriminatory laws. Moreover, constitutions can offer protection against policy and legal changes during periods of social and political shifts that may seek to undermine equal rights. Therefore, 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 as of May 2017 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.

#### POLAND'S CONSTITUTIONAL PROVISIONS

Article 32 of Poland's constitution guarantees equality before the law and non-discrimination to all persons, which Poland has reiterated in its State Party report under the LOIPR (p. 6). Poland's constitution further guarantees equal rights between men and women, as outlined in Article 33. However, many groups guaranteed equality in the CRC are not explicitly covered by Articles 32 and 33, including persons facing discrimination based on race, colour, language, religion, political or other opinion, national, ethnic or social origin, property status, disability, or birth status.

##### *Article 32*

*1. All persons shall be equal before the law. All persons shall have the right to equal treatment by public authorities.*

*2. No one shall be discriminated against in political, social or economic life for any reason whatsoever.*

##### *Article 33*





1. *Men and women shall have equal rights in family, political, social and economic life in the Republic of Poland.*
2. *Men and women shall have equal rights, in particular, regarding education, employment and promotion, and shall have the right to equal compensation for work of similar value, to social security, to hold offices, and to receive public honours and decorations.*

## 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 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.

### POLAND'S LEGISLATIVE PROVISIONS

Based on our review, Poland establishes a minimum age of marriage of 18 years old for both girls and boys. However, under provisions in the Family and Guardianship Code, girls can be married at the age of 16 with court approval. While acknowledging Poland's declining rates of child marriages as reported in the State Party report under the LOIPR (p. 34), we also recognize the importance of amending existing legislative provisions to protect girls under the age of 18 from early marriage without exceptions.

*Art. 10.*

*§ 1. Nie może zawrzeć małżeństwa osoba nie mająca ukończonych lat osiemnastu. Jednakże z ważnych powodów sąd opiekuńczy może zezwolić na zawarcie małżeństwa kobiecie, która ukończyła lat szesnaście, a z okoliczności wynika, że zawarcie małżeństwa będzie zgodne z dobrem założonej rodziny.*





*§ 2. Unieważnienia małżeństwa zawartego przez mężczyznę, który nie ukończył lat osiemnastu, oraz przez kobietę, która nie ukończyła lat szesnastu albo bez zezwolenia sądu zawarła małżeństwo po ukończeniu lat szesnastu, lecz przed ukończeniem lat osiemnastu, może żądać każdy z małżonków.*

*§ 3. Nie można unieważnić małżeństwa z powodu braku przepisanego wieku, jeżeli małżonek przed wytoczeniem powództwa ten wiek osiągnął.*

*§ 4. Jeżeli kobieta zaszła w ciążę, jej mąż nie może żądać unieważnienia małżeństwa z powodu braku przepisanego wieku.*





## Reference Sheet

### Poland: Recommended Concluding Observations

*For the Committee on the Rights of the Child, 86<sup>th</sup> Session, January 2021*

#### **General Principles: Equality and Non-Discrimination**

- We hope the Committee will recommend in its concluding observations that Poland add constitutional guarantees of equality for all persons regardless of race, colour, language, religion, political or other opinion, national, ethnic or social origin, property status, disability, or birth status, consistent with CRC commitments.

#### **Special Protection Measures: Child Marriage**

We hope the Committee will:

- Recommend in its concluding observations that Poland pass and implement legislation that protects girls under the age of 18 from early marriage without exceptions.
- Recommend in its concluding observations that Poland 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.

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*Brief prepared by the WORLD Policy Analysis Center, University of California, Los Angeles -  
[www.worldpolicycenter.org](http://www.worldpolicycenter.org)*

