



ANDORRA

Submission to the Committee on the Rights of the Child

94th Pre-Sessional Working Group, February 2023

NGO Report

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 GC No. 4).....2

Detail of Constitutional and Legislative Findings.....3

 1. General Principles: Equality and Non-Discrimination (Article 2)3

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



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 94th Pre-Sessional Working Group 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. 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 first provide a summary of our constitutional and legislative findings, as well as suggested questions for the Committee to ask Andorra, 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 Andorra 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 Andorra for having provisions in place, we hope the Committee will recommend that Andorra 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)

Andorra’s constitution guarantees equality before the law to all persons, and further prohibits any form of discrimination based on birth, race, sex, origin, religion, opinion, or other personal and social conditions. There are, however, some characteristics guaranteed equality in Article 2.1 of the CRC which are not explicitly included in this constitutional non-discrimination provision, including children facing discrimination based on disability or language status.

RECOMMENDED CONCLUDING OBSERVATION

We hope the Committee will:

- Recommend in its concluding observations that Andorra amend its constitution to add explicit guarantees of equality and non-discrimination regardless of disability and language status, consistent with CRC commitments. These guarantees could be added to Article 6 of the constitution, which already guarantees non-discrimination based on other personal and social characteristics.

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

Based on our review, Andorra legally allows girls and boys to be married at the age of 16. Legislation further allows children younger than this to be married with parental and judicial permission.

RECOMMENDED QUESTIONS FOR THE LOI AND CONCLUDING OBSERVATION

We hope the Committee will:

- In its list of issues, ask Andorra: Can Andorra outline any concrete, near-term plans to pass legislation that raises the minimum age of marriage to 18 years old without exceptions?
 - If Andorra does not have concrete, near-term plans in place, recommend in its concluding observations that Andorra pass and implement legislation that protects children under the age of 18 from early marriage without exceptions, consistent with CRC commitments from General Comment No. 4 and concerns the Committee has previously raised (CRC/C/AND/CO/2, para. 23; CRC/C/15/Add.176, para. 24).





DETAIL OF CONSTITUTIONAL AND LEGISLATIVE FINDINGS

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

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.

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.

ANDORRA'S CONSTITUTIONAL PROVISIONS: MISSING EXPLICIT GUARANTEES OF EQUALITY AND NON-DISCRIMINATION BASED ON DISABILITY AND LANGUAGE

Article 6 of Andorra's constitution guarantees equality before the law to all persons, and further prohibits any form of discrimination based on birth, race, sex, origin, religion, opinion, or other personal and social characteristics.

Article 6

1. Toutes les personnes sont égales devant la loi. Nul ne peut faire l'objet d'une discrimination, notamment pour des raisons de naissance, de race, de sexe, d'origine, de religion, d'opinion ou de toute autre condition tenant à sa situation personnelle ou sociale.

There are, however, some characteristics guaranteed equality in Article 2.1 of the CRC which are not explicitly included in this constitutional non-discrimination provision, including children facing discrimination based on disability or language status.





2. Special Protection Measures: Child Marriage (Articles 19, 24, 28, 34, and GC 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.

ANDORRA'S LEGISLATIVE PROVISIONS: NEED TO STRENGTHEN CHILD MARRIAGE LAWS

Based on our review, the 1995 Law in Marriage in Andorra legally allows girls and boys to be married at the age of 16. The law also stipulates that children younger than this may be married with parental and judicial permission.

Loi organique sur le Mariage de la principauté d'Andorre

Chapitre 2

Les conditions du mariage civil

Article 18- Ne peuvent contracter un mariage civil:

- 1- Les mineurs de seize ans, sauf dispense dans les conditions de l'article 20.*
- 2- Les personnes unies par les liens du mariage.*

Article 20- La juridiction civile, sur demande des intéressés, fondée sur des motifs valables, et après avis du ministère public, peut dispenser des empêchements suivants:

- 1- Celui relatif à l'âge dès lors qu'il s'agit de majeurs de quatorze ans, après audition des personnes qui exercent l'autorité parentale ou la tutelle, lesquelles dans tous les cas doivent déclarer si elles consentent au mariage ou bien si elles s'y opposent.*
- 2- Celui de consanguinité en lignes collatérales au quatrième degré.*





3- Ceux qui découlent de l'adoption.

4- Celui prévu au paragraphe 4 de l'article 19.

Chapitre 6 : La nullité du mariage civil.

Article 36- Le mariage civil est nul lorsqu'il est célébré:

36-1 Entre des personnes concernées par un des empêchements prévus par les articles 18 et 19, sauf le cas de dispense de l'article 20.

