



BHUTAN

Submission to the Committee on the Rights of the Child

90th Pre-Sessional Working Group, September 2021

NGO Report

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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 90th 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 (Article 2)**
- Special Protection Measures: **Education, Leisure and Cultural Activities (Articles 23, 28)**

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 Bhutan, 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 Bhutan 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 Bhutan for having provisions in place, we hope the Committee will recommend that Bhutan 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)

Based on our review of full-text national constitutions, Bhutan's constitution prohibits discrimination on the basis of race, sex, language, religion, and political affiliation. The constitution also explicitly aims to protect children from all forms of discrimination. However, some groups guaranteed equality in the Convention are not explicitly covered by this constitutional provision, including children facing discrimination based on national, ethnic, or social origin, property status, disability status, or birth status.

We hope the Committee will:

- Recommend in its concluding observations that **Bhutan amend its constitution** to add explicit guarantees of equality and non-discrimination regardless of national, ethnic, and social origin, property status, birth status, and disability status, consistent with CRC commitments. These guarantees could be added to Article 7 of the constitution, which already guarantees non-discrimination based on other personal characteristics and statuses.

2. Special Protection Measures: Education, Leisure and Cultural Activities (Articles 23, 28)

The constitution of Bhutan endeavors to provide free education as a Principle of State Policy. Additionally, through our review of policy documents and regulations, we identified the Bhutan Education Blueprint (2014-2024) drafted by the Ministry of Education, which states that primary school is provided tuition-free. However, based on our systematic review of national legislation, **we did not find any indication that Bhutan has implemented legislation guaranteeing compulsory primary education.**

Our review also finds that **Bhutan has not implemented any legislative provisions that guarantee non-discrimination or individualized accommodations for children who may face distinct barriers to accessing education, including children with disabilities.**

We hope the Committee will:

- In its list of issues, ask Bhutan: Can Bhutan outline any concrete, near-term plans to pass legislation that guarantees compulsory administration of primary education for all children?
 - If Bhutan does not have concrete, near-term plans to ensure compulsory primary education, recommend in its concluding observations that Bhutan pass and implement legislation to do so.



- In its list of issues, ask Bhutan: Can Bhutan outline any concrete, near-term plans to pass legislation that promotes equitable access to education for students with disabilities through guarantees of non-discrimination and individualized accommodations?
 - If Bhutan does not have concrete, near-term plans to guarantee non-discrimination and individualized accommodations for students with disabilities, recommend in its concluding observations that Bhutan pass and implement legislation to do so.

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.



BHUTAN'S CONSTITUTIONAL PROVISIONS: STRENGTHEN GUARANTEES OF EQUALITY AND NON-DISCRIMINATION

Based on our review of full-text national constitutions, Article 7 of Bhutan's constitution prohibits discrimination on the basis of race, sex, language, religion, and political affiliation. Article 9 of the constitution further aims to protect children from all forms of discrimination.

Constitution of Bhutan

Article 7

7.15. All persons are equal before the law and are entitled to equal and effective protection of the law and shall not be discriminated against on the grounds of race, sex, language, religion, politics or other status.

Article 9: Principles of State Policy

9.18. The State shall endeavour to take appropriate measures to ensure that children are protected against all forms of discrimination and exploitation including trafficking, prostitution, abuse, violence, degrading treatment and economic exploitation.

However, **some groups guaranteed equality in the Convention are not explicitly covered by this constitutional provision**, including children facing discrimination based on national, ethnic, or social origin, property status, disability status, or birth status.

2. Special Protection Measures: Education, Leisure and Cultural Activities (Articles 23, 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". In addition, Article 23.3 of the CRC recognizes the rights and special needs of children with disabilities, and in particular, encourages States Parties to design assistance policies which "ensure that the disabled child has effective access to and receives education".

For all 193 UN member states, we systematically reviewed education acts, child protection laws, and anti-discrimination legislation 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 or supplementary policy documents guaranteed free and compulsory primary education. Our review also determined whether national legislation guaranteed non-discrimination in education based on disability, and whether legislative provisions guaranteed individualized accommodations and supports to enable students with disabilities to succeed in school alongside their peers and advance inclusion.



BHUTAN'S LEGISLATIVE PROVISIONS: STRENGTHEN LEGISLATIVE GUARANTEES TO EDUCATION

The constitution of Bhutan endeavors to provide free education through the Principles of State Policy outlined in Article 9.

Constitution of Bhutan

Article 9: Principles of State Policy

9.1. The State shall endeavour to apply the Principles of State Policy set out in this Article to ensure a good quality of life for the people of Bhutan in a progressive and prosperous country that is committed to peace and amity in the world.

[...]

9.16. The State shall provide free education to all children of school going age up to tenth standard and ensure that technical and professional education is made generally available and that higher education is equally accessible to all on the basis of merit.

Through our supplementary review of policy documents and regulations, we also located the Bhutan Education Blueprint (2014-2024) drafted by the Ministry of Education, which outlines that primary school is provided tuition-free.

Bhutan Education Blueprint (2014-2024)

2.2 Formal Education

The formal education system covers all institution based education from pre-primary to tertiary education. Bhutan currently has seven years primary education cycle (PP-VI), including one year of pre-primary, followed by six years of secondary education comprising two years of lower secondary (VII-VIII), two years of middle secondary (IX-X), and two years of higher secondary (XI-XII). This is delivered through extended classrooms (PP-III), primary schools (PP-VI), lower secondary schools (PP-VIII), middle secondary schools (PP/VII-X), and higher secondary schools (PP/VII/IX/XI-XII).

Bhutan provides free basic education from class pre-primary (PP) at the age of six till grade X. Beyond grade X the provision of higher secondary education is based on merit. With the first private school established in 1987, there are currently 32 private schools in the country.

However, based on our systematic review of national legislation, **we did not find any indication that Bhutan has implemented legislation guaranteeing compulsory primary education.**

Our review also finds that Bhutan has not implemented any legislative provisions that guarantee non-discrimination or individualized accommodations for children who may face distinct barriers to accessing education, including students with disabilities.