



BOLIVIA

Submission to the Committee on the Rights of the Child

88th Pre-Sessional Working Group, February 2021

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 88th Pre-Sessional Working Group of the Committee on the Rights of the Child.

This brief will focus on the following on the following area:

- Special Protection Measures: **Child Marriage**
- Education, Leisure and Cultural Activities: **Free and Compulsory Education**

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 detailed constitutional and legislative excerpts documenting our findings. These findings are followed by suggested questions the Committee may ask Bolivia, as well as topics we hope the Committee will address in its concluding observations. We hope the Committee will recommend that Bolivia 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 Bolivia for having provisions in place, we hope the Committee will recommend that Bolivia work with stakeholders to overcome any obstacles in implementing these provisions.





SUMMARY OF FINDINGS AND RECOMMENDATIONS

SPECIAL PROTECTION MEASURES: CHILD MARRIAGE (ARTICLES 19, 24, 28, 34, AND GENERAL COMMENT NO. 4)

Based on our review, Bolivia establishes a legal minimum age of marriage of 18 years for girls and boys. However, the law also allows children to be married at the age of 16 with parental consent.

We hope the Committee will:

- In its list of issues, ask Bolivia: Can Bolivia outline any concrete, near-term plans to amend the current Family Code to remove any parental consent exceptions which allow girls and boys under the age of 18 to marry?
 - If Bolivia does not have concrete, near-term plans in place, recommend in its concluding observations that Bolivia amend the Family Code to remove any parental consent exceptions to the minimum age of marriage for girls and boys.

EDUCATION, LEISURE AND CULTURAL ACTIVITIES: FREE AND COMPULSORY EDUCATION (ARTICLE 28)

Based on our review, Bolivia guarantees free and compulsory education through the secondary level. These are positive provisions to have in place, however, the implementation and enforcement of these provisions are equally important. According to the UNESCO Institute for Statistics, in 2018 the total net enrollment rate for primary education in Bolivia was 93%. The rates of enrollment dropped even further for lower secondary (87%) and upper secondary (79%) levels of education.

We hope the Committee will:

- In its list of issues, ask Bolivia: Given the number of children who are not enrolled in school at ages where education is compulsory, can Bolivia outline specific measures being taken to ensure legal guarantees of free and compulsory education will be fully implemented for all children? What are the obstacles faced by children who are not enrolled in free and compulsory levels of education?
 - Where Bolivia has not outlined specific measures to fully and equally implement provisions regarding free and compulsory education for all children, recommend in its concluding observations approaches to advancing these educational guarantees fully and effectively.





DETAIL OF CONSTITUTIONAL AND LEGISLATIVE FINDINGS

**SPECIAL PROTECTION MEASURES: CHILD MARRIAGE (ARTICLES 19, 24, 28, 34, AND
GENERAL COMMENT 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.

➤ **Bolivia's Legislative Provisions: Children can Marry at the Age of 16 with Parental Consent**

We commend Bolivia for the passage and implementation of the 2014 Family Code, which, alongside the amended Civil Code, now establishes an equal minimum age of marriage of 18 years for girls and boys. However, the Family Code also maintains exceptions to this provision, stipulating that children may be married at the age of 16 with parental consent.

Código Civil

ARTÍCULO 4. (MAYORÍA DE EDAD Y CAPACIDAD DE OBRAR).-

I. La mayoría de edad se adquiere a los dieciocho años cumplidos.

II. El mayor de edad tiene capacidad para realizar por sí mismo todos los actos de la vida civil, salvo las excepciones establecidas por Ley.

Código de las Familias y Proceso Familiar

ARTÍCULO 139. (EDAD).





I. La persona podrá constituir libremente matrimonio o unión libre, una vez cumplida la mayoría de edad.

II. De manera excepcional, se podrá constituir matrimonio o unión libre a los dieciséis (16) años de edad cumplidos, siempre que se cuente con la autorización escrita de quienes ejercen la autoridad parental, o quien tenga la tutela o la guarda, o a falta de éstos la Defensoría de la Niñez y Adolescencia. Es válida la autorización verbal realizada al momento de la celebración del matrimonio o del registro de unión libre ante oficial de Registro Cívico.

III. Cuando no se dé la autorización establecida en el Parágrafo anterior, la o el interesado podrá solicitarla a la autoridad judicial.

EDUCATION, LEISURE AND CULTURAL ACTIVITIES: FREE AND COMPULSORY EDUCATION
(ARTICLE 28)

Article 28.1 of the Convention states that:

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

(a) Make primary education compulsory and available free to all;

(b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;

(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

For all 193 UN member states, we systematically reviewed education acts and child protection laws 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 guaranteed free and compulsory primary education.

➤ **Bolivia's Legislative Provisions**

Article 1 of the Law on Education guarantees free education at all levels of education and makes education compulsory through the secondary level.

Ley de Educación

COMO DERECHO FUNDAMENTAL

Artículo 1. (Mandatos Constitucionales de la educación).





1. Toda persona tiene derecho a recibir educación en todos los niveles de manera universal, productiva, gratuita, integral e intercultural, sin discriminación.

[...]

3. El Estado y la sociedad tienen tuición plena sobre el sistema educativo, que comprende la educación regular, la alternativa y especial, y la educación superior de formación profesional. El sistema educativo desarrolla sus procesos sobre la base de criterios de armonía y coordinación.

[...]

8. La educación es obligatoria hasta el bachillerato.

➤ **Implementation of Free and Compulsory Education through Secondary Level**

We also assessed implementation of free and compulsory education by consulting the UNESCO Institute for Statistics' most recent available data on total net enrollment rates for primary, lower secondary and upper secondary enrollment.

We found the net enrollment in primary education in Bolivia to be 93%, and enrollment rates further declined for lower secondary (87%) and upper secondary (79%) levels of education.





RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS

We hope the Committee will:

**SPECIAL PROTECTION MEASURES: CHILD MARRIAGE (ARTICLES 19, 24, 28, 34, AND
GENERAL COMMENT NO. 4)**

- In its list of issues, ask Bolivia: Can Bolivia outline any concrete, near-term plans to amend the current Family Code to remove any parental consent exceptions which allow girls and boys under the age of 18 to marry?
 - If Bolivia does not have concrete, near-term plans in place, recommend in its concluding observations that Bolivia amend the Family Code to remove any parental consent exceptions to the minimum age of marriage for girls and boys.

**EDUCATION, LEISURE AND CULTURAL ACTIVITIES: FREE AND COMPULSORY EDUCATION
(ARTICLE 28)**

- In its list of issues, ask Bolivia: Given the number of children who are not enrolled in school at ages where education is compulsory, can Bolivia outline specific measures being taken to ensure legal guarantees of free and compulsory education will be fully implemented for all children? What are the obstacles faced by children who are not enrolled in free and compulsory levels of education?
 - Where Bolivia has not outlined specific measures to fully and equally implement provisions regarding free and compulsory education for all children, recommend in its concluding observations approaches to advancing these educational guarantees fully and effectively.

