



**BHUTAN: A BRIEF ON IMPLEMENTATION OF CRC  
COMMITMENTS FROM ARTICLES 2, 19, 23, 24, 28, 34,  
AND GENERAL COMMENT 4**

*Information for the Committee on the Rights of the Child  
97<sup>th</sup> Pre-Sessional Working Group, February 2024*

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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 2,500 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 96<sup>th</sup> Pre-Sessional Working Group of the Committee on the Rights of the Child.

This brief will focus on the following areas:

- General Principles: **Equality and Non-Discrimination**
- Special Protection Measures: **Education, Leisure and Cultural Activities**
- 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 (150 in the case of detention based on immigration status) 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 that 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 grants equality before the law to all, and explicitly prohibits discrimination on the basis of race, sex, language, religion, and political opinion. However, some groups guaranteed equality in the Convention are not explicitly covered by this constitutional provision, including children facing discrimination based on national or social origin, property, disability status, and birth status. The constitution does, however, also protect on the basis of “other status” beyond the groups and statuses explicitly listed.

#### RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS

We hope the Committee will:

- In its list of issues, ask Bhutan: Can Bhutan demonstrate whether the constitutional right to equality on the basis of “other status” has been interpreted through case law or other policies to apply on the basis of national or social origin, property, disability status, and birth status?
  - If Bhutan cannot demonstrate that this constitutional universal protection protects from discrimination on the basis of national or social origin, property, disability status, and birth status, recommend in its concluding observations that Bhutan amend its constitution to add explicit guarantees of equality and non-discrimination based on these grounds. These provisions could be added to Article 7.15 of the constitution, which already lists multiple other groups and statuses listed in the Convention.

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

Bhutan’s constitution makes education free until the tenth grade, but there are no constitutional, legislative or policy provisions on compulsory education. Further, we found no provisions on classroom integration for children with disabilities, or prohibitions of discrimination against children with disabilities in the education system.



**RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS**

**We hope the Committee will:**

- In its list of issues, ask Bhutan: Does Bhutan have any concrete, near-term plans to pass an education act that includes provisions on compulsory education?
  - If Bhutan cannot, recommend in its concluding observations that Bhutan develop concrete, near-term plans to pass an education act that explicitly makes education compulsory at least at the primary level, in accordance with article 28 of the Convention.
- In its list of issues, ask Bhutan: Does Bhutan have any concrete, near-term plans to pass legislation that prohibits discrimination against students with disabilities in the education system?
  - If Bhutan cannot, recommend in its concluding observations that Bhutan develop concrete, near-term plans to pass legislation that explicitly prohibits discrimination on the basis of disability in education.
- In its list of issues, ask Bhutan: Does Bhutan have any concrete, near-term plans to pass legislation that guarantees the integration of children with disabilities in the education system?
  - If Bhutan cannot, recommend in its concluding observations that Bhutan develop concrete, near-term plans to pass legislation that explicitly guarantees school integration of students with disabilities.

### 3. Special Protection Measures: Child Marriage (Articles 19, 24, 28, 34, and General Comment No. 4)

Bhutanese law prohibits any marriage under the age of 18, for both girls and boys and without exception, since 1996. Despite this prohibition, Bhutan's child marriage rates remained high nearly 15 years later; in 2010, when child marriage was last measured in the country by UNICEF, 26% of women aged 20-24 had been married before age 18, 6% had been married before age 15, and 15% of women aged 15-19 were already married.<sup>1</sup>

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<sup>1</sup> UNICEF data – Child Marriage. Retrieved October 6, 2023 from <https://data.unicef.org/topic/child-protection/child-marriage/>



#### RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS

**We hope the Committee will:**

- In its list of issues, ask Bhutan: Can Bhutan outline how it will effectively enforce the provisions in the Marriage Act that prohibit marriage before age 18?
  - If Bhutan has no concrete plans to ensure enforcement of the minimum age of marriage, recommend that Bhutan formulate concrete, near-term plans to do so.
- In its list of issues, ask Bhutan: given the lack of available data on child marriage after 2010, can Bhutan provide more recent statistics on underage marriages in the country, disaggregated by sex and age?
  - If updated statistics are not available, recommend in its concluding observations that Bhutan begin collecting and reporting statistics on age of marriage, disaggregated by sex and age.

#### 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: MISSING EXPLICIT GUARANTEES OF EQUALITY AND NON-DISCRIMINATION BASED ON MULTIPLE PROTECTED GROUNDS*

Based on our review of full-text national constitutions, Article 7.15 of Bhutan's constitution guarantees equality before the law to all, and further protects against discrimination on the basis of race, sex, language, religion political opinion, and "any other status"

*Constitution of Bhutan*

*Article 7 – Fundamental Rights*

*(...)*

*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.*

*(...)*

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

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

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Article 28.1 of the CRC recognizes a child's right to education, and specifically outlines that States Parties "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





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, under religious and customary law, and with court or governmental approval. 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.

*BHUTAN'S LEGISLATIVE PROVISIONS: CHILD MARRIAGE PROHIBITED SINCE 1996, BUT LATEST DATA SHOW IT IS STILL WIDELY PRACTICED*

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Our research shows that Bhutanese law prohibits any marriage under the age of 18, for both girls and boys and without exception, since 1996.

**Marriage Act, 1980**

*Kha 1-11.*

*The traditional performance of marriages between minors as mentioned hereafter in Section Kha 1-14 shall also cease with the enactment of this Act. In contravention of which, the case shall be dealt with in accordance with the provisions laid down hereinafter in Section Kha 8-20.*

*Kha 1-14.*

*Consequent to the restrictions on the marriages of minors as stipulated in the aforesaid Section Kha 1-11, no Marriage Certificates shall be granted for marriages performed between a male person not attaining the age of eighteen years and a female not attaining sixteen years as they are considered not to have attained full age.*

**State Party Report, 2023**

*54. The 74th Session of the National Assembly deliberated on the Marriage Act of 1980 and subsequently a Resolution was passed amending the minimum age of marriage for girls to 18 years. The Dzongkha text of the Marriage Act 1980 duly records this amendment.*

As discussed in paragraph 55 of the state party report, the Bhutanese penal code further prohibits all sexual intercourse with children under 18 since at least 2004.

Bhutan's latest data on child marriages is over a decade old (2010). Despite a strong prohibition that by 2010 had been in force for almost 15 years, child marriage rates in Bhutan remained high: 26% of women aged 20-24 in 2010 had been married before age 18, 6% had been married before age 15, and

