



TURKMENISTAN: A BRIEF ON IMPLEMENTATION OF CRC COMMITMENTS FROM ARTICLE 2

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

Submitted By

The WORLD Policy Analysis Center
University of California, Los Angeles



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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 97th Pre-Sessional Working Group of the Committee on the Rights of the Child.

This brief will focus on the following area:

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

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 Turkmenistan, 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 Turkmenistan 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 Turkmenistan for having provisions in place, we hope the Committee will recommend that Turkmenistan 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, Turkmenistan’s constitution explicitly guarantees equality on the basis of all groups and statuses listed in the Convention, except for discrimination on the basis of disability. The constitution does, however, also protect on the basis of “other circumstances” beyond the groups and statuses explicitly listed.

RECOMMENDED CONCLUDING OBSERVATION

We hope the Committee will:

- In its list of issues, ask Turkmenistan: Can Turkmenistan demonstrate whether the constitutional right to equality on the basis of “other circumstances” has been interpreted through case law or other policies to apply on the basis of disability?
 - If Turkmenistan cannot demonstrate that this constitutional universal protection protects from discrimination on the basis of disability, recommend in its concluding observations that Turkmenistan amend its constitution to add explicit guarantees of equality and non-discrimination based on these grounds. These provisions could be added to Article 28 of the constitution, which already lists multiple other groups and statuses listed in the Convention.

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.

TURKMENISTAN'S CONSTITUTIONAL PROVISIONS: MISSING EXPLICIT GUARANTEES OF EQUALITY AND NON-DISCRIMINATION ON THE BASIS OF DISABILITY

Based on our review of full-text national constitutions, article 15 of Turkmenistan's constitution commits the state to equality on the basis of belonging to social and ethnic communities, and article 18 grants equality before the law on the basis of skin color, sex, language, religion, political beliefs, nationality, property, origin, and "other circumstances".

Constitution of Turkmenistan, as amended to 2016

Article 15

*The state shall be responsible for safeguarding the national historical, cultural and natural heritage, natural environment, ensuring equality between social and ethnic communities.
(...)*

Article 28

*Turkmenistan shall guarantee the equality of rights and freedoms of a person and a citizen, and also the equality of a person and a citizen before the law regardless of their nationality, skin colour, gender, origin, property and official status, place of residence, language, religion, political beliefs, and other circumstances.
(...)*

Notably, the constitution has no explicit protections against discrimination on the basis of disability.

Our research has shown that these protections are becoming increasingly common: While only 12% of current constitutions that were passed before 1990 explicitly guarantee equality for persons with disabilities, 69% of those passed since 2010 do. In addition, older constitutions can be amended to include protections for persons with disabilities where none existed before. In two examples from our research, the Republic of Georgia amended its constitution to protect the rights of persons with disabilities in 2018, as did the Republic of Guyana in 2003.



BRIEFING PREPARED BY THE WORLD POLICY ANALYSIS CENTER, UNIVERSITY OF CALIFORNIA, LOS ANGELES