



**ENDING CHILD, EARLY AND  
FORCED MARRIAGES AND  
UNIONS IN ARGENTINA:  
LEGAL AND POLICY FRAMEWORKS**



# ACKNOWLEDGMENTS

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## ABOUT EQUALITY NOW

Since its founding in 1992, Equality Now has been using a unique combination of legal advocacy, regional partnership-building, and community mobilization to encourage governments to adopt, improve, and enforce laws that protect and promote the human rights of women and girls around the world. With an international team, our campaigns are centered on four program areas: Achieve Legal Equality, End Sexual Violence, End Harmful Practices, and End Sexual Exploitation, with a cross-cutting focus on the unique needs of adolescent girls.

## ABOUT CLADEM

The Latin American and Caribbean Committee for the Defense of Women's Rights (CLADEM) is a regional network that brings together women and organizations with a feminist socio-legal approach, aimed at promoting social transformation and the construction of radical democracies from an intersectional perspective. Founded in 1987 and formalized in 1989, CLADEM emerged in a context of political change in Latin America, uniting feminist activists to address common issues affecting women, especially in vulnerable sectors. Throughout its trajectory, CLADEM has carried out advocacy, research, training, and activism, contributing to the strengthening of the rule of law and gender equality.

# I. INTRODUCTION

Child, early and forced marriages and unions (CEFMU) are a fundamental violation of human rights, which disproportionately impacts women and girls around the world, especially their right to freedom from sexual exploitation and abuse, the right to education, the right to the highest attainable standard of health, including sexual and reproductive health, and the right to protection from violence. CEFMU is a widespread harmful practice that hinders development priorities and is rooted in gender inequality, customs, tradition, culture, politics, economic interests, honor, and religion and can have devastating consequences for individuals and society.

Globally, [650 million girls and women](#) are married before their 18th birthday. Concerningly, research from UNICEF shows that the Latin America and the Caribbean (LAC) region [has not made progress](#) in reducing child marriage prevalence in the last 25 years. This means that by 2030, the LAC region is expected to become second only to Sub-Saharan Africa in terms of child marriage prevalence globally.

Given that the critical issue of CEFMU has not received sufficient attention in Argentina, [Equality Now](#) and [Comité de América Latina y el Caribe para la Defensa de los Derechos de las Mujeres \(CLADEM\)](#) have developed this factsheet, which aims to raise awareness about the prevalence of CEFMU in Argentina, the laws and policies which are currently applicable, and to advocate for a change in the laws, policies and norms surrounding CEFMU in the country.

## II. THE SITUATION OF CHILD, EARLY AND FORCED MARRIAGES AND UNIONS IN ARGENTINA

[UNICEF data from the MICS 2019-2020 survey](#) shows that 15% of women aged 20-24 years were married or in unions before the age of 18, and 2% before the age of 15. The rates of CEFMU are highest in the Northeastern Argentina (18.9%) and Pampeana (18.5%) regions.

In addition, a [study conducted by the Foundation for the Study and Research on Women \(FEIM\)](#) in 2019 found that almost 340,000 adolescents in Argentina were married or in

a union, many of whom were at least 5-10 years older than them. This age gap is alarming because it can put girls in a situation of inequality of power in the relationship, where they tend to become more dependent on their partners and more prone to experience violence.

## III. INTERNATIONAL AND REGIONAL HUMAN RIGHTS FRAMEWORK ON CHILD MARRIAGE IN ARGENTINA

Argentina is a signatory to and has ratified all major human rights treaties, including the International Covenant of Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the Convention on the Rights of the Child (CRC).

Both the CRC and the CEDAW include provisions for the protection of women and girls against forced marriage and for the right to health, the right to be free from violence and abuse, the right to equality and non-discrimination, and the right to education. This set of rights is adversely affected if the child is married before the age of 18. Accordingly, the joint [CEDAW/CRC General Comment](#) on harmful practices in 2019 explicitly recommends States to ensure “[t]hat a **minimum legal age of marriage for girls and boys, with or without parental consent, is established at 18 years;**”.

Argentina is also a member of the Organization of American States (OAS) and has ratified the American Convention on Human Rights which recognizes the right of men and women of ‘marriageable age’ to marry and with the full and free consent of the parties. Argentina has also ratified the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (the *Belém do Pará* Convention). In 2022, the Follow-up Mechanism to the *Belém do Pará* Convention (MESECVI) released its ‘[Hemispheric Report on Child, Early and Forced Marriage and Unions](#)’ and recommended State Parties to “align national frameworks with international standards on the minimum age for marriage and gender equality” and called for comprehensive legislative reforms which have a multisectoral perspective that aims to solve the structural causes of child marriages and early unions.

# IV. ARGENTINA'S CURRENT LAW ON CHILD MARRIAGE: ANALYSIS AND PROTECTION GAPS

## Relevant Legal Provisions

In Argentina, the minimum legal age for marriage is 18 years, for boys and girls, which coincides with the age of legal majority. However, under the [Código Civil y Comercial de la Nación 2015](#) (CCyC), parties aged between 16-18 can be married with the permission of their legal representatives, and parties under 16 years can be married with the judicial dispensation. As noted by [MESECVI](#), **Argentina is one of the few countries in the LAC region where the law does not establish an absolute minimum age for marriage.**

In addition to the CCyC, relevant legislation includes [Law 26.061 of 2005](#) - Law on Comprehensive Protection of the Rights of Children and Adolescents which provides a comprehensive range of protections and provisions for girls, boys, and adolescents, including the right to life with dignity and integrity, health, education, freedom from violence among other human rights; and enshrines the principles of the best interests of the child and progressive autonomy. The [Penal Code](#) of Argentina also sanctions civil servants who authorize an unlawful marriage and legitimate representatives of the minor who give consent for such a marriage.

## Judicial Dispensation to Permit Marriage of Minors Below 16

Article 404 of the CCyC includes the following criteria which the judge needs to follow to grant the dispensations:

- (i) The judge must hold a personal interview with the future spouses and their legal representatives.
- (ii) The judicial decision must take into account the age and degree of maturity reached by the person, referring especially to the understanding of the legal consequences of the matrimonial act; it must also evaluate the opinion of the representatives, if they had expressed it.
- (iii) An additional safeguard regarding approval of administrative accounts is required for permitting the marriage of a legal guardian with the person under his/her guardianship.

However, these measures for granting judicial dispensations do not contain sufficient safeguards, as noted by the concluding observations of the CEDAW Committee in 2016, wherein the Committee expressed concern about the “absence of gender-based criteria and legal advice to apply provisions under the New Civil and Commercial Code., allowing for marriage under 18 years based on authorization of judicial authorities.”

The law does not provide any clear protocol for how the interview with the judge should be conducted, which means there is no way to check whether the child has been coerced into making the decision. Additionally, there is no minimum age to apply for judicial dispensation, which means that the law permits children of any age to be married.

There is also no publicly available data on the number of cases in which the judicial dispensation has been provided; or the circumstances/age of the children who were permitted to marry. This lack of data also means that there is no accountability or awareness of how judges are using the wide discretion which has been granted to them under the law.

## Emancipation

The CCyC states that minors who enter into marriage are automatically legally emancipated. This emancipation is irrevocable, which means that once a marriage is contracted, the minor acquires the capacity to exercise his or her rights independently, although with certain limitations.

Emancipation through child marriage deprives children and adolescents of the special protection measures provided for in the Convention on the Rights of the Child and other international and regional human rights treaties, including their right to be cared for and have their basic needs supported by their parents. By considering children as adults upon marriage, they are denied the protection and care necessary for their integral development and are exposed to vulnerable situations. Irrevocable emancipation implies that, even in the event of annulment of the marriage, the minor will continue to be considered emancipated, which perpetuates the lack of protection and vulnerability of children and adolescents. As recommended by MESECVI, States must continue to protect children until they reach the age of majority, even if they have been emancipated.

# V. RECOMMENDATIONS

Based on the information and legal analysis above, we are making the following recommendations to the Government of Argentina to end child, early and forced marriages and unions (CEFMU):

**Amend the civil code to prohibit marriage before 18 years of age, without any exceptions for parental or judicial consent.**

This can be achieved by entirely removing Article 404 from the CCyC. Such an amendment would be in line with Argentina's international and regional human rights standards. However, the legal prohibition of marriage below 18 does not necessitate imposition of criminal penalties, but rather making explicit the State's and societies' understanding that young people need time to understand their independent circumstances before entering into a lifelong contract that will affect many aspects of their lives.

**Balance the principle of progressive autonomy for adolescents with the obligation to protect children from gender-based violence and abuse.**

As recommended by the Committee on the Rights of the Child's General Comment on adolescence, States have an obligation to recognize that persons up to the age of 18 years are entitled to continued protection from all forms of exploitation and abuse. This includes setting the minimum age for marriage at 18. However, States should also take into account the need to balance protection and evolving capacities of adolescents. This includes, for instance, the requirement that States should not criminalize adolescents of similar ages for consensual, non-coercive, and non-exploitative sexual activity. Additionally, children should have access to comprehensive sexuality and relationship education and reproductive rights and services.

**Ensure that laws and policies addressing child, early and forced marriages and unions in Argentina have a holistic, multi-sectoral approach, which includes a strategy for preventing and supporting children in informal unions, community education and awareness programs; and budgeted action plans towards addressing child marriage.**

A comprehensive, multi-sectoral approach to ending child marriage, including in laws and policies itself, is key. Taking into account that poverty, gender-based violence, and the violation of sexual and reproductive rights are some of the main determinants of marriage and unions of girls and adolescents, strategies should be developed to promote economic growth opportunities for adolescents, in order to reduce structural inequality. There should also be guaranteed access to comprehensive sexuality education in schools and strengthened access to sexual and reproductive health information for adolescents; as well as reinforcement of comprehensive protection measures against gender-based violence.

**Collect disaggregated data on child, early and forced marriages and unions in Argentina.**

It is essential to have accurate, updated, and disaggregated data on the number of marriages and unions of girls under 18 in Argentina. These statistics will allow all stakeholders to have a clear vision of the magnitude of this problem and its geographic distribution, which will be fundamental to designing effective public policies and work towards the eradication of child marriage; and to understand the underlying causes that lead to the perpetuation of this practice.

In conclusion, it is essential to approach the issue of child, early and forced marriages and unions in Argentina from a comprehensive and rights-based perspective, guaranteeing the protection and development of girls and adolescents in the country.

## Contact Equality Now

 [info@equalitynow.org](mailto:info@equalitynow.org)

 [www.equalitynow.org](http://www.equalitynow.org)

 [@equality-now](https://www.linkedin.com/company/equalitynow)

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