

Barbados

1. Discrimination in the family

a) Overarching legal framework for marriage

Women and men in Barbados have equal rights to enter into marriage, in accordance with the Marriage Act Chap 218 A. Forced marriage is prohibited under section 5 (2 c), where it states that a marriage is void if “the consent thereto of either person is not a real consent because— it was obtained by duress or fraud....” All religious and civil ceremonies require registration. Persons who fail to enter registration details are liable upon conviction to a fine of \$500 or imprisonment for six months or both (Marriage Act Chap 218 A, s. 40). Informal unions are not regulated under this act, but afforded provisions in other pieces of legislation. Co-habiting partners who have written agreements, are entitled to certain provisions with respect to property, maintenance and custody of children and other matters (Family Law Act CAP 214, s. 49).

Though generally equal rights are afforded, there is some concern regarding a lack of awareness among women that they can retain their maiden names after marriage (CEDAW Combined Report, 2017).

b) Child marriage

The legal age for women and men to enter into marriage is 18 years. However, girls between the ages of 16 and 18 may be married with the consent of either parents, either male or female guardians, and if neither is possible, then consent may be derived from a judge (Marriage Act Chap. 218 A - Second schedule (1 - 3). Child marriage is prohibited, noting that any marriage of persons under the age of 16 is automatically deemed void (Marriage Act Chap. 218 A, S.4 (1)). There is very limited data on its practice nationally.

c) Household responsibilities

There is no legislation determining the head of the household, and women are not required to obey their husbands.

Women and men share equal responsibility with regards to guardianship of their children irrespective of marital status (Family Law Act CAP. 214, s. 40 (1)). Regarding equal responsibility, this is further referenced in other laws requiring each parent, according to his or her financial resources, to maintain his or her child who is unmarried and has not attained the age of 18 years (Maintenance Act CAP 216, s. 4.)

The Constitution of Barbados s. 22 affords protection of freedom of movement, explicitly stating that “no person shall be deprived of his freedom of movement, that is- to say, the right to move freely throughout Barbados, the right to reside in any part of Barbados.”

While there are no legal restrictions to household responsibility, remaining challenges include the discriminatory cultural stereotypes and practices regarding the roles and responsibilities of women

and men within the family, which disproportionately and negatively impact women and girls (CEDAW combined report, 2017).

d) Divorce

Married women and men have an equal right to initiate and finalize divorce proceedings (Family Law Act CAP. 214, s. 20 (2), and 35 (1)). An application is made based on the ground that the marriage has broken down irretrievably. Rights of guardianship and custody thereafter are subject to the court. No major reports on discrimination within divorce were located. However, the combined fifth to eighth periodic CEDAW report notes the absence of protection from related discrimination within legislation.

e) Inheritance

All children have equal rights to inherit land and non-land assets (Succession Act Cap. 249 - s. 51). Surviving female spouses are also afforded equal rights to men within provisions of this act. Specifically noting that If an intestate dies leaving a spouse and no issue or next-of-kin, the spouse shall take the whole estate. If an intestate dies leaving a spouse and no issue but next-of-kin, the spouse shall take two-thirds of the estate and the remainder shall be distributed in equal shares among the next-of-kin. Subject to subsection (4), if an intestate dies leaving a spouse and one child, the spouse shall take two-thirds of the estate and the remainder shall go to the child; a spouse and children, the spouse shall take one-third of the estate and the remainder shall be distributed among the children in equal shares. If any child of the intestate has predeceased him leaving issue and such issue is alive at the date of the intestate's death, the spouse shall take the same share of the estate as if that child had been living at that date, and the issue of that child shall take, in the manner provided for in subsection (6), the share which that child would have taken if he had survived the intestate.

Succession Act Cap. 249 - s. 102 allows provisions for the disinheritance of a spouse, with reasons for exclusion from succession including judicial separation or misconduct that lead to separation, and also with the conditionality that the spouse was found guilty of an offense against the deceased. Succession Act Cap. 249 - s. 103 further outlines disposition for the purpose of disinheriting children. The act also provides equal rights for women and men to issue a will.

2. Restricted Physical integrity

a) Violence against women

Barbados ratified the Convention of Belem do Para in 1995; however regional and international conventions do not take precedence over domestic legislation. According to the 2011 Belem Do Para Country Report, no information was provided on the direct application of the Convention, though it is implied however, that some aspects have in fact been incorporated. The two primary pieces of legislation related to violence against women are the Domestic Violence (Protection Orders) (Amendment) Act, 2016; and the Sexual Offences (Amendment) Act, 2016.

There is no specific law to address Violence against Women. Presently there is also no national plan and policy, though a draft has been delayed for several years, which is a concern noted by the

CEDAW committee (CEDAW Combined Report, 2017). The CEDAW report further notes that statistical data on gender based violence is not routinely collected, however violence against women and sexual violence are reportedly prevalent in Barbados. The most recent Caribbean Development Bank gender report also cites particular concern for the high prevalence of sexual abuse of girls.

b) Domestic violence

Within the recently amended Domestic Violence Act of 2016, domestic violence is defined as the wilful infliction or threat of infliction of harm by one person in a domestic relationship upon another person in that relationship and includes child abuse, emotional abuse, financial abuse, physical abuse and sexual abuse. The law also redefines domestic relationship to include the relationship between a perpetrator of domestic violence and victim who is a spouse, former spouse, child, dependant or other person who is considered to be a relative. The law also makes provisions for guidelines for members of the Police Force in relation to domestic violence. Additionally, the Bureau of Gender Affairs has conducted VAW training with the Barbados Police Force, and assisted in the establishment of a Family Conflict Unit within the force (CEDAW Combined Report, 2017). Legislation does not afford provisions for shelters or toll free hotline. However, the International Federation of Business and Professional Women (BPW) Barbados, offers temporary housing for victims, for up to 25 women at any given time, and note an average length of stay of three months.

Of remaining concern is general access to health services, which are reported to be restricted due to factors such as austerity measures implemented by the Government (CEDAW Combined Report, 2017). The CEDAW Committee further notes the incidence of gender based violence against women, in particular domestic and sexual violence, remain culturally accepted and underreported. Additionally there is a need for statistical data disaggregated by age and relationship between the victim and the perpetrator (CEDAW Combined Report, 2017).

c) Rape

Rape is defined within law, as “any person who has sexual intercourse with another person without the consent of the other person and who knows that the other person does not consent to the intercourse or is reckless as to whether the other person consents to the intercourse” (Sexual Offences Act Chap. 154 s. 3) A person found guilty of this offence is liable on conviction to imprisonment for life. Additionally, section 37 further extends punishment to include whipping, if the perpetrator is male. The law also makes special provisions for aggravated assault. Increased penalties may be extended to cases of intercourse with persons under the age of 14, irrespective of whether consent was given, and liable upon conviction to life imprisonment. Intercourse with persons between 14 and 16, are liable to an additional ten years imprisonment. Additionally, intercourse with persons proven to have a mental disability, are also liable to receive an additional ten years imprisonment. The law was amended in 2016 to extend the definition of rape to include marital rape (Sexual Offences (Amendment) Act 2016, s 2 (4)).

d) Sexual harassment

There is presently no legislation providing protection from sexual harassment. However, the Sexual Harassment (Prevention) Bill has been drafted, though the delayed adoption remains a concern (CEDAW Combined Report, 2017).

e) Female genital mutilation

There is no law addressing female genital mutilation. There is no evidence to suggest that female genital mutilation is practiced in Barbados.

f) Abortion

Legislation makes provisions for the termination of pregnancy on the grounds of health, notwithstanding sections 61 and 62 of the Offences against the Person Act, Cap. 141 (Medical Termination of Pregnancy Act, Chap. 44 A). Abortion is permitted within the first 12 weeks of pregnancy, with the authorization of a physician if he or she is satisfied of a risk to the life, physical or mental health of the pregnant woman, or foetal inviability. These conditions are further extended to pregnancy of more than 12 weeks' but less than 20 weeks', however authorization is required by two physicians. If more than 20 weeks, termination is permitted only to save the life of the mother and must be authorized by three physicians. In scenarios up to 20 weeks, written consent is required from the pregnant woman only.

More

Barbados is a source and destination country for men, women, and children subjected to sex trafficking and forced labour, according to the US Department of State 2017 Trafficking in Persons Report. The report notes that undocumented immigrants from Jamaica and Guyana are particularly susceptible. In addressing this issue, the Government has responded with measures including legislative reform, notably, The Trafficking in Persons Prevention Act, in 2016. A special unit on trafficking in the Royal Barbados Police Force was also established in 2013. Remaining challenges however include, delayed implementation of National Policy on Trafficking and the Policy and Procedures Manual for Protection of Victims of Trafficking; lack of information on the number of complaints, investigations, prosecutions; and reports of discrimination and gender-based violence against women in prostitution (CEDAW Combined Report, 2017).

3. Restricted Access to productive and financial resources

a) Secure access to land and assets

Women and men are regarded equally within the law in the context of the ownership and use of land. Married women are explicitly protected, noting that "A married woman shall be capable of acquiring, holding and disposing by will or otherwise of any real or personal property as her separate property, in the same manner as if she were a unmarried, without the intervention of any trustee" (Married Women Act Chap. 219, s. 13 A). Non Governmental Organizations such as the BPW Barbados (Business and Professionals Women's Club) and Caribbean Network of Rural Women Producers, which is based in Barbados, also allow for greater participation in cooperatives and rural communities. Concern is expressed however regarding the lack of sex disaggregated data in key areas such as ownership of property, which consequently restricts evidence-based approaches to gender equality.

b) Secure access to formal financial resources

No restrictions were located with regard to opening a bank account or registering a business, including the requirement of a husband's signature. There was also nothing located in legislation that discriminates against a woman's access to formal financial institutions, including credit. The 2016 CDB Gender Assessment notes however that the majority of self-employed persons, employers and owners/managers of businesses are men, and further outlined the following challenges for women, notably: "i. Lack of access to credit, especially because of lack of collateral to secure loans; ii. Weaker professional networks than men; iii. Lack of knowledge about procedures for incorporation, registration and the taxation system; iv. Need to balance caring responsibilities with income-earning possibilities". The report goes on further to state instances of women being denied formal credit, even though meeting the requirements for obtaining such.

c) Workplace rights

The law does not mandate non-discrimination on the basis of sex. Also lacking in legislation is equal pay for equal work, and reports indicate that women earned significantly less than men for comparable work (US State Department, 2016, Barbados Human Rights Report). The law prohibits women from entering certain professions, notably, but not limited to (a) work at a furnace involving the reduction or treatment of zinc or lead ores; (b) the manufacture of solder or alloys containing more than 10 per cent lead; (d) the manufacture of any oxide, carbonate, sulphate, chromate, acetate, nitrate, or silicate of lead; (e) the manufacture of paint containing lead (f) mixing or pasting in connection with the manufacture or repair of electric accumulators.

Another area of concern is the absence of protection of employment in the domestic service, which is primarily represented by women. These services are not included in the Safety at Work Act. However, it is reported that efforts are being made to ratify the ILO Convention 189 (Caribbean Development Bank, 2016). Women are entitled to up 12 weeks maternity leave in accordance with Employment of Women (Maternity Leave) Act, Chap. 345 Sec. 3. The cost is absorbed fully by the Government, and according to a 2016 World Bank Report, women are entitled to 100% of their pay. Paid paternity and parental leave are not legislated.

4. Restricted Civil liberties

a) Citizenship rights

Men and women are afforded equal provisions through the Constitution of Barbados, to acquire, retain and change their nationality, irrespective of marital status. Discriminatory practices become evident however, with respect to conferring nationality to a spouse. Specifically, acquisition of citizenship through marriage is not applicable to a foreign man, marrying a Barbadian woman who was not born in Barbados (The Constitution of Barbados 1966, s.3 and 6). There is also concern regarding the transfer of citizenship to a child born outside of the state to a Barbadian woman who was not born in Barbados. Additionally, with respect to the registration of births, if the parents are married then the father is responsible for registration. If the mother is single, then she holds responsibility. Regarding application of passports and identity cards, the former notes an automatic requirement for new passports for women upon marriage but not for men.

Furthermore, while the Constitution of prohibits discrimination on the basis of race, place of origin, political opinions, colour, creed or sex, no reference is made to gender or intersectional discrimination (Constitution of Barbados 1966, s.11). Freedom of movement is protected affording every person "the right to enter Barbados, the right to leave Barbados and immunity from expulsion from Barbados" (Constitution of Barbados 1966, s. 22).

b) Voting

All eligible citizens and residents of Barbados are afforded the equal right to vote (Representation of the People Act 2007, s7). Furthermore, there does not appear to be any major report of discrimination with regard to women's right to vote, or access to information.

c) Political voice

The Constitution of Barbados provides women with the same rights as men to hold public office, including at the Legislature, Executive and Judiciary levels. However, challenges persist caused by discriminatory practices and stereotypes that are reflected in women's limited participation. According to the 2017 CEDAW report, these stereotypes include unequal roles and responsibilities of women and men in the family and in society. It is reported that women remain grossly underrepresented in Parliament, in the Government and in the diplomatic service. It further notes the absence of temporary special measures or quotas to address the issue of gender parity (CEDAW Combined Report, 2017).

d) Access to justice

Women and men have equal capacity to sue and be sued, and there is no evidence regarding discriminatory practices or unequal weight of a woman's testimony in court. Legal aid is afforded through the provisions of the Community Legal Services Act Chap. 112 A. It is also reported the Government is planning to establish a Family Court at magisterial and High Court levels. Concerns remain however regarding: insufficient resources; considerable backlogs and lengthy delays in processing cases; limited capacity of the police and courts to deal with complaints from women about gender-based violence (CEDAW Combined Report, 2017). The national machinery with responsibility for gender and development in Barbados is the Bureau of Gender Affairs. The CEDAW committee further notes the Bureau's limited capacity due to issues of human, technical and financial resources.

Sources

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