

Republic of Congo

1. Discrimination in the family

a) Overarching legal framework for marriage

The law does not provide women with the same rights as men to enter into marriage (Family Code, art. 128). Marriage is based on consent of both spouses (Family Code, art. 129 & 139). Forced marriage is prohibited under the legal framework (Family Code, art. 129 & 156). The Family Code recognises polygamy (art. 136).

The Family Code includes provisions which prohibit harmful practices against widows, notably articles 800 - 802 which stipulate that customary rites related to widowhood are voluntary and cannot be imposed and that mistreatments and abuses related to widowhood rites are prohibited.

The law does not provide for official registration of all marriages and partnerships including customary/religious marriages and informal or de-facto unions (Family Code, art. 150). Additionally, informal or de-facto unions are not regulated by law.

Adultery is criminalised but women when charged with adultery are disproportionately sanctioned in comparison with men (CEDAW, 2012). Men are sanctioned by a fine while women can face a prison sentence (US Department of State, 2016).

b) Child marriage

The legal age of marriage for women is 18 years old and the legal age of marriage for men is 21 years old (Family Code, art. 128). The Public Prosecutor can authorise a marriage below the legal age in extenuating circumstances (Family Code, art. 128). In this case, consent from the parents of the minor is required (Family Code, art. 130). Child marriage is void under the legal framework (Family Code, art. 156 & Law on the Protection of the Child, art. 37). The Law on the Protection of the Child includes sanctions for those facilitating a marriage of an individual who is under the minimum age of marriage, as whoever forces a child to marry is punishable of imprisonment of three months to two years and a fine (art. 108).

Child marriage remains prevalent in the Republic of Congo (World Bank, 2016). Girls aged between 15 and 18 years old are particularly vulnerable to child marriage (World Bank, 2016). Girls living in rural areas and coming from low-income families are more likely to be married early (World Bank, 2016). The highest rates of child marriage have been recorded in the region of Pool, followed by Plateaux, Kouilou, Cuvette, Niari and Likouala (World Bank, 2016). The incidence of child marriage has not decreased significantly in the past 25 years; however, girls tend to marry less early than before (World Bank, 2016). Early pregnancies of girls aged between 12 and 18 years old represents additionally a concern (Ministry for the Advancement of Women and the Integration for Women in Development, 2016).

c) Household responsibilities

The law does not provide women with the same rights as men to be recognised as the head of household as the husband is considered the head of household (Family Code, art. 168). The law does not provide women with the same rights as men to be the legal guardians of their children during marriage (Family Code, art. 168). However, the law provides women with the same rights and responsibilities as men with regards to their children during marriage (Family Code, art. 178). Additionally, the law provides women and men with the same rights to be the legal guardians of their children in informal unions (Family Code, art. 320).

The law provides married women with the same rights as married men to choose where to live, however if the spouses do not reach an agreement, the husband will make the decision (Family Code, art. 171). Unmarried women are provided with the same rights as unmarried men to choose where to live (Family Code, art. 102, 104 & 106).

The Government has led awareness-raising campaigns on the role and place of women in the family and in the society (CEDAW, 2012).

However, the CEDAW Committee (2012) stresses that patriarchal attitudes and stereotypical social norms persist regarding the roles and responsibilities of women and men within the family and society. Women are traditionally responsible within families of caring for the children and the elderly and domestic work (Ministry for the Advancement of Women and the Integration for Women in Development, 2008).

d) Divorce

The law provides women with the same rights as men to initiate divorce (Family Code, art. 180). Women and men have the same requirements to finalise a divorce or annulment (Family Code, art. 194). Additionally, the law provides women with the same rights as men to be the legal guardians of their children after divorce and women and men have the same rights and responsibilities with regards to their children after divorce (Family Code, art. 194). Women must wait 300 days after the dissolution of their marriage before they can remarry (Family Code, art. 137).

Reports suggest that divorce remains widely associated with stigma (Emery, 2013). The husband may additionally ask that his wife repays the dowry upon divorce, which may be difficult for women with low incomes or living in poverty and may constitute a barrier to seeking divorce (Emery, 2013). Furthermore, it appears that women face discrimination with regards to divorce settlements and their rights to property and financial assets upon divorce (US Department of States, 2016).

e) Inheritance

The law provides daughters with the same rights as sons to inherit land and non-land assets (Family Code, art. 473). Female surviving spouses are granted the same rights as male surviving spouses to inherit land and non-land assets (Family Code, art. 484). Women have the same rights as men to make a will (Family Code, art. 627).

The CEDAW Committee (2012) notes the existence of discriminatory practices which deprive widows of inheriting property and land. Women in customary or de facto marriages are often subject to discriminatory customary law which negates widows' rights to inheritance and widows are often expropriated upon the death of their husband (Africa for Women's Rights, n. d.). Women are expected to return to their family and lose access to property and land (Imbou-Ngalamou, 2015). Furthermore, reports suggest that widowhood rites may be violent or degrading and continue to be practiced amongst some communities (Ministry for the Advancement of Women and the Integration for Women in Development, 2008).

2. Restricted Physical integrity

a) Violence against women

The Republic of Congo has ratified in 2011 the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol, 2003).

There is no law addressing specifically violence against women including a comprehensive approach to address violence against women with specific provisions for investigation, prosecution and punishment of the perpetrator and protection and support services for victims/survivors. There is no national action plan or policy regarding violence against women.

The CEDAW Committee (2012) notes that violence against women is prevalent in the Republic of Congo. Additionally, the CEDAW Committee (2012) reports on harmful practices against women, including abusive widowhood rites. The CEDAW Committee (2012) stresses the lack of reporting of cases of violence against women due to cultural taboos.

b) Domestic violence

The legal framework does not address domestic violence and does not consider it a criminal offense.

Services provided to victims of domestic violence are very limited in the Republic of Congo (Immigration and Refugee Board of Canada, 2015). Civil society organisations provide assistance to victims, including legal aid and helplines, but funds are limited and they do not cover all regions (Immigration and Refugee Board of Canada, 2015).

Domestic violence is prevalent in the Republic of Congo (Ministry for the Advancement of Women and the Integration for Women in Development, 2016). Domestic violence cases recorded in the Republic of Congo concern physical, sexual, economic and psychological violence within the family (Immigration and Refugee Board of Canada, 2015). Cultural attitudes towards domestic violence tend to stigmatize victims and perceive domestic violence as a private matter (Ministry for the Advancement of Women and the Integration for Women in Development, 2016). Victims rarely report abuse within the family and tribunals record extremely low rates of complaints for abuse by a family member (Ministry for the Advancement of Women and the Integration for Women in Development, 2016). Reasons invoked for the underreporting of domestic violence by women are a lack of knowledge of their rights, feelings of shame, fear of social stigma and retaliation, lack of trust in the

justice system or family pressure (Immigration and Refugee Board of Canada, 2015 & US Department of State, 2016). Domestic violence cases are often settled within the extended family or the local leaders (US Department of State, 2016).

c) Rape

Rape is punishable of five to ten years of imprisonment (US Department of State, 2016). The law punishes sexual violence, including during armed conflict (Ministry for the Advancement of Women and the Integration for Women in Development, 2016). However, reports suggest that sanctions for rape rarely exceed three years of imprisonment (US Department of State, 2016). Marital rape is not criminalised, nonetheless a wife can file a complaint (World Bank, 2016a).

Sources mention that the Government has opened two emergency shelters for victims of rape in Brazzaville (Immigration and Refugee Board of Canada, 2015). Assistance to victims of sexual violence is reportedly ensured through psychological and medical care units, which provide gynaecological and psychological consultations, pregnancy tests and emergency pill if needed, screening tests for HIV/AIDS and specialised medical treatment (UN Women, 2014).

Victims seldom report rape and sexual violence due notably to stigma, lack of information concerning their rights and the costs of proceedings (Ministry for the Advancement of Women and the Integration for Women in Development, 2016). It is estimated that 10% of cases of sexual violence are reported (Immigration and Refugee Board of Canada, 2015). Convictions are rarely reached and amicable settlements are common in cases of rape and sexual violence (Ministry for the Advancement of Women and the Integration for Women in Development, 2016). The CEDAW Committee (2012) notes that Indigenous women and girls are extremely vulnerable to sexual violence.

The Republic of Congo has faced nearly a decade of political unrest and civil wars between 1993 and 1998, leading to massacres of civilians and disappearances by the armed groups (FIDH, 2004). Reports assert that sexual violence and rape were used as weapons of war during the conflicts (Immigration and Refugee Board of Canada, 2015). Furthermore, the CEDAW Committee (2012) highlights the high incidence of sexual violence during the conflict as well as the general impunity for perpetrators of sexual violence in the post-conflict period.

d) Sexual harassment

The legal framework does not provide legal protection from sexual harassment. Sexual harassment is reportedly prevalent in the family, at school, at work and in public places (CEDAW, 2012). Estimations from 2013 show that within educational establishments, 51% of girls' victims of sexual harassment, often leading to more severe forms of sexual violence (Immigration and Refugee Board Canada, 2015). It is assessed that 29% of victims of sexual violence within education establishments do not continue their studies (Immigration and Refugee Board of Canada, 2015).

e) Female genital mutilation

Female genital mutilation on children is considered a criminal offense under the Law on the Protection of the Child in the Republic of Congo (art. 62 & 116). Criminal penalties are included for whoever

performs female genital mutilation and victims of female genital mutilation can seek legal redress and compensation under the law (Law on the Protection of the Child in the Republic of Congo, art. 62 & 116).

Female genital mutilation does not appear to be a practice of concern in the Republic of Congo (UNICEF, 2013).

f) Abortion

Abortion on request is illegal in the Republic of Congo and is punishable under the criminal law (United Nations Population Division, 2002). A legal abortion can be performed with the approval of a doctor to save the woman's life or to protect the health of the pregnant woman (United Nations Population Division, 2002).

Clandestine abortions are prevalent and it is the main cause of maternal death (United Nations Population Division, 2002).

3. Restricted Access to productive and financial resources

a) Secure access to land and assets

Regarding land, property and other non-land assets, married women are not provided with the same rights as married men to own, use, make decisions and use as collateral (Family Code, art. 217). Marital property is administered by the male head of household (Family Code, art. 217). Nonetheless, spousal consent is required for major transactions (Family Code, art. 217).

Regarding land, property and other non-land assets, unmarried women are provided with the same rights as unmarried men to own, use, make decisions and use as collateral (Constitution, art. 23). Additionally, regarding land, property and other non-land assets, the law provides women and men with the same rights after divorce or separation to own, use, make decisions and use as collateral (Family Code, art. 220 & 225).

Furthermore, no restrictions were located in the law with regards to joint land titling for land used or acquired by married couples or informal unions (Law on Land Tenure, art. 40).

The National Gender Policy includes measures related to rural women, notably to ensure that women and men have the same opportunities to access and control land, seeds, fertilizers, markets and technologies or to promote cooperatives and training in agriculture techniques (Ministry for the Advancement of Women and the Integration for Women in Development, 2008).

In the agriculture sector, women are tasked mainly with subsistence farming for the family and the community, in addition to domestic chores and caring for the children (Imbou-Ngalamou, 2015). Women tend to perform unpaid agriculture work and they are often excluded from local decision-making processes (Imbou-Ngalamou, 2015).

The CEDAW Committee (2012) notes the existence of discriminatory practices with regards to women's ownership and inheritance rights of land. Women may be allowed to use a parcel of land but

men are usually the owners (Imbou-Ngalamou, 2015). Furthermore, in some ethnic groups, such as amongst the Kukuya in the region of the Plateaux, women are excluded from inheriting land and only children can inherit the land from their father (Imbou-Ngalamou, 2015). Women are allowed to cultivate their husband's land, but in case of divorce or upon the death of their husband, women lose access to land and are expected to return to their families (Imbou-Ngalamou, 2015).

b) Secure access to formal financial resources

The law provides married women with the same rights as married men to open a bank account at a formal financial institution (Family Code, art. 176). Married/unmarried women have the same rights as married/unmarried men to obtain credit (Family Code, art. 176 & Constitution, art. 48).

The National Gender Policy includes measures to improve women's access to credit, notably actions to improve women's access to employment and micro-credit; to ensure that there are no differences of treatment with regards to women and men's access to property and land, to sign contracts or to negotiate credit; to ensure that women have guarantees to be granted credit and to create a fund for development dedicated to women (Ministry for the Advancement of Women and the Integration for Women in Development, 2008).

The CEDAW Committee (2012) stresses the difficulties faced by women to access credit, in particular, to start small-scale businesses. Additionally, estimations show that women face difficulties in accessing formal financial services, as 7% of women have a formal financial account in comparison to 11% of men (IMF, 2014).

c) Workplace rights

The Republic of Congo has ratified several of the International Labour Conventions, notably the Equal Remuneration Convention (No. 100) and the Discrimination (Employment and Occupation) Convention (No. 111).

The law does not mandate non-discrimination on the basis of sex in employment and does not cover specifically job advertisements, selection criteria, recruitment, hiring, terms and conditions, promotions, training, assignments and termination. Nonetheless, the law mandates equal remuneration for work of equal value (Labour Code, art. 80).

There are some discriminatory provisions in the Labour Code, notably the law prohibits women from entering certain professions (Labour Code, art. 112). Additionally, the law does not allow women to work the same night hours as men in factories, manufactories, mining industries and construction sites (Labour Code, art. 108).

The law provides for maternity leave of 15 weeks, with 100% of wages paid half by the employer and half by the Government (Labour Code, art. 113). The law protects women's employment security when they are on maternity leave (Labour Code, art. 113). Workers are allowed 10 days off in special circumstances for a family event with full wages to the employer's liability (Labour Code, art. 119). The law does not provide for parental leave.

The law does not require women to have permission from their husband or legal guardian to choose a profession, occupation or work or to register a business (Family Code, art. 175 & Constitution, art. 48). Additionally, the law specifically mentions that married women are allowed to join a trade union without the authorisation of their husband and that married women are authorised to bring a case in front of the Labour Tribunal (Labour Code, art. 188 & 234). There are no specific bodies tasked with receiving, investigating, adjudicating and enforcing complaints based on sex discrimination in employment.

The National Gender Policy includes measures to improve women's access to employment, notably to ensure that differentiations based on sex with regards to access to employment and choice of occupation are integrated in the formulation of policies and strategies and to promote equality of opportunities in terms of employment, access to training and conditions of employment (Ministry for the Advancement of Women and the Integration for Women in Development, 2008).

The CEDAW Committee (2012) stresses the occupational segregation in the labour force as well as the concentration of women in the informal economy. Reports show that women face discrimination in employment, equal pay, and owning and managing businesses (US Department of State, 2016). Women in the Republic of Congo are mostly employed in agriculture and the urban informal sector, such as small businesses, catering, crafts and sewing workshops (Mbalamona, 2011). In the agriculture sector, there is a gendered division of work by which men are mostly involved with management and income-generating activities and women are mostly involved with subsistence farming and domestic work (Mbalamona, 2011). In the public sector, women are mostly employed in low-level positions in administration, public health or social services (Mbalamona, 2011). Reports suggest additionally that socio-cultural factors constrain women and girls to their roles as mothers and wives and limit their opportunities for employment (Mbalamona, 2011).

4. Restricted Civil liberties

a) Citizenship rights

The law does not provide married women with the same rights as married men to acquire, change or retain their nationality and married women are not provided with the same rights as married men to confer nationality to their spouse, as the foreign woman who marries a Congolese man acquire the Congolese nationality automatically after five years of residence (Nationality Code, art. 18). She may decline the nationality within those five years (Nationality Code, art. 19). A foreign man who marries a Congolese woman goes through the standard procedure of naturalisation (Nationality Code, art. 27).

The law provides unmarried women with the same rights as unmarried men to acquire, change or retain their nationality (Nationality Code, art. 27, 36 & 47). Additionally, the law provides unmarried/married women with the same rights as unmarried/married men to confer nationality to their children (Nationality Code, art. 7). Furthermore, women and men are provided with the same rights to register the birth of their children (Family Code, art. 45). Delayed registration is authorised within three months after the standard delay of one month after birth upon the request from the Public Prosecutor (Family Code, art. 45).

The Constitution does not recognise and prohibits multiple/intersectional discrimination. Nonetheless, article 17 of the Constitution stipulates that women and men enjoy the same rights and that the law ensures parity and the promotion of women's representation in political, legislative and administrative positions.

Women and men are provided with the same rights to apply for identity cards (Immigration and Refugee Board of Canada, 2014). Married women do not have the same rights as married men to apply for passports (Passport application procedures, n.d.). Women are provided additionally with the same rights as men to acquire passports and other travel documents for their minor children (Immigration and Refugee Board of Canada, 2012). The law provides women with the same rights as men to travel outside the country (Constitution, art. 22).

b) Voting

The law provides women and men with the same rights to vote (Constitution, art. 6). The CEDAW Committee (2012) reports on an amendment to the Law on Political Parties which encourages women's participation in political and in elections as voters.

Reports suggest that women's vote remain influenced and constrained by pressure exercised by the family, usually the husband or the brother (Ministry for the Advancement of Women and the Integration for Women in Development, 2016). Patriarchal attitudes related to women's vote convey stereotypical and discriminatory perceptions that women cannot make decisions pertaining to the public sphere (Ministry for the Advancement of Women and the Integration for Women in Development, 2016).

c) Political voice

The law provides women with the same rights as men to hold public and political office, including within the legislature, the executive and the judiciary (Constitution, art. 66, 128, 133 & 168).

At the national level, the legal framework mandates a 30% quota of women on candidate lists for legislative and senatorial elections (Law of 1 September 2014 Amending the Electoral Law, art. 61). At the local level, the legal framework mandates a 30% quota of women on candidate lists for the local councillors' elections (Law of 1 September 2014 Amending the Electoral Law, art. 67). The legal framework does not provide for sanctions for failure to implement temporary special measures or quotas. The Law on Political Parties includes a provision establishing that political parties must guarantee and ensure the promotion of women in all political, elective and administrative positions (art. 8).

The National Programme for the Promotion of Women's Leadership in Political and Public Life in the Republic of Congo (2017-2021) was elaborated by the Ministry for the Advancement of Women and the Integration for Women in Development in cooperation with the United Nations Development Programme (Ministry for the Advancement of Women and the Integration for Women in Development, 2016). The National Programme includes four areas of actions, namely to amend the legal framework and to enhance institutional mechanisms for the promotion of women in political,

legislative and administrative positions; to promote a gender-sensitive and quality education; to build the capacities and expertise of women and strengthen the role of civil society organisations and to promote women leaders and raise awareness amongst civil society (Ministry for the Advancement of Women and the Integration for Women in Development, 2016).

Women's participation in political and public life remains low (CEDAW, 2012). There was a relative increase of women as ministers, however they are often in charge of ministries with lower importance (Ministry for the Advancement of Women and the Integration for Women in Development, 2016). The instauration of quotas has not led to expected results because the type of quotas concerns candidate lists and not the results of the elections, the law is limited because it does not provide women with eligible places on candidate lists and there are no sanctions for political parties which do not comply (Ministry for the Advancement of Women and the Integration for Women in Development, 2016). Several factors can explain the lack of women's representation in political and public life, notably poverty, lack of access to education, socio-cultural stereotypes regarding women and men's roles and responsibilities within society, violence against women and girls, lack of training and unequal access to resources (Ministry for the Advancement of Women and the Integration for Women in Development, 2016).

A study on perceptions of women's leadership reveals deep-rooted patriarchal attitudes, notably the perceived superiority of men over women and the perception that men are better leaders (Ministry for the Advancement of Women and the Integration for Women in Development, 2016). The lack of women participating in political and public life is additionally perceived as a result of their own fault rather than the result of discrimination and exclusion (Ministry for the Advancement of Women and the Integration for Women in Development, 2016).

d) Access to justice

The law provides married/unmarried women with the same capacity as married/unmarried men to be sued and to sue (Constitution, art. 15). Additionally, a woman's testimony carries the same evidentiary weight in court as a man's in all types of court cases such as civil, criminal, family court and tribunal (Constitution, art. 15).

The specialized bodies tasked with monitoring gender equality are the National Human Rights Commission and the Women's Advisory Council (Constitution, art. 214 & 232). The National Human Rights Commission is tasked with promoting and protecting human rights (Constitution, art. 215). The Women's Advisory Council is tasked with monitoring the status of women and to suggest to the Government measures to promote the integration of women in development (Constitution, art. 232). The Ministry for the Advancement of women and the Integration for Women in Development coordinates actions at the government level for gender equality (CEDAW, 2012).

The CEDAW Committee (2012) notes the persistence of traditional justice mechanisms that discriminate against women. Additionally, reports suggest that women face multiple barriers to access justice, notably a lack of knowledge of their rights and the legal framework, the cost of proceedings and the distance to court (Africa for Women's Rights, n. d.). Consequently, the recourse to amicable settlements and traditional justice mechanisms is common (Africa for Women's Rights, n. d.).

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