

Côte d'Ivoire

1. Discrimination in the family

a) Overarching legal framework for marriage

The law provides women with the same rights as men to enter into marriage (Law on Marriage, art. 1). Marriage is based on mutual consent of both spouses (Law on Marriage, art. 3). Forced marriage and polygamy are prohibited (Law on Marriage, art. 2 & 4; Penal Code, art. 390).

Levirate and sororate marriages (whereby a widow/widower remarries with her brother-in-law/his sister-in-law) are prohibited, but the Public Prosecutor may authorise such marriages in extenuating circumstances (Law on Marriage, art. 11 & 12). Informal, customary/religious marriages or de-facto unions are not regulated by law (Law on Marriage, art. 18 & 19).

The Law on Marriage contains a provision stipulating that women must wait 300 days after divorce or the death of their husband before contracting a new marriage (Law on Marriage, art. 9). This restriction does not apply to men. Additionally, adultery is criminalised differently for women and men: a woman is punishable of imprisonment of two months to a year, while the same charge will apply to a man only if he commits adultery within the conjugal home or if he has regular sexual relations with another woman outside the conjugal home (Penal Code, art. 391).

The CEDAW Committee (2011) stresses the persistence of harmful traditional practices such as polygamy, levirate and sororate marriages and forced marriage. Additionally, the CEDAW Committee (2011) reports on the prevalence of customary and/or religious marriages.

b) Child marriage

The legal age of marriage is 18 years old for women and 20 years old for men (Law on Marriage, art. 1). Child marriage is prohibited (Law on Marriage, art. 1). A minor below the age of 21 years old cannot marry without the consent of his/her mother and father (Law on Marriage, art. 5) or guardian (Law on Marriage, art. 8). The Public Prosecutor can authorise a marriage below the legal age in extenuating circumstances (Law on Marriage, art. 1). Whoever constrains a person below the age of 18 years old to enter a customary or religious marriage is punishable of imprisonment of one to five years and a fine (Penal Code, art. 378).

The government has led awareness-raising activities with community and religious leaders on various subjects, such as early marriage and pregnancy (Republic of Côte d'Ivoire, 2014). Additionally, a solemn declaration to combat early marriage was signed in 2014 by religious associations and the association of traditional kings and chiefs in Côte d'Ivoire (Republic of Côte d'Ivoire, 2014).

The CEDAW Committee (2011) highlights the persistence of the practice of early marriage in rural areas. Girls between 15 and 18 years old are especially vulnerable to early marriage, in particular in the Western part of the country (Girls not Brides, n.d.).

c) Household responsibilities

The law provides women with the same rights as men to be recognised as the head of household (Law on Marriage, art. 58 & 59) and to choose where to live (Law on Marriage, art. 60). Additionally, the law provides women with the same rights as men to be the legal guardians of their children and the same rights and responsibilities towards their children during marriage (Law on Marriage, art. 58). Women have the same rights as men to be the legal guardians of their children in informal unions (Law on Minority, art. 3).

The CEDAW Committee (2011) highlights the persistence of “patriarchal attitudes and deep-rooted stereotypes regarding the roles, responsibilities and identities of women and men in the family and society”. A study conducted in rural Côte d’Ivoire revealed that traditional gender roles prevail within households and villages. Men are responsible of income-generating activities, while women tend to be in charge of domestic and care work in the household (Falb et al., 2014).

d) Divorce

The law provides men and women with the same rights as men to initiate divorce and the same requirements to finalise a divorce or annulment (Law on Divorce and Judicial Separation, art. 1 & 2). Women have the same rights as men to be the legal guardians of their children after divorce and have the same rights and responsibilities with regards to their children after divorce (Law on Divorce and Judicial Separation, art. 21). Divorce rate is low in Côte d’Ivoire and marriage holds a high social value (Emery, 2013).

e) Inheritance

Female surviving spouses have the same rights as male surviving spouses to inherit land and non-land assets (Law on Successions, art. 8). Daughters also have the same rights as sons to inherit land and non-land assets (Law on Successions, art. 22). Additionally, the law provides women with the same rights as men to make a will (Law on Gifts and Testaments, art. 3).

Discriminatory practices often infringe upon women’s rights to inheritance. Customary law in Eastern Côte d’Ivoire is based on matrilineal inheritance systems, by which the male heir inherits from his mother (FAO, n. d.). In Western Côte d’Ivoire, customary law is based on patrilineal inheritance systems, by which women through marriage integrate the husband’s lineage and do not inherit (FAO, n. d.).

2. Restricted Physical integrity

a) Violence against women

Côte d’Ivoire ratified the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol). However, there is no law specifically addressing violence against women.

The National Strategy for Combating Gender-based Violence (2014-2016) included several strategic priorities: prevention, justice and fighting impunity, reforming the security forces, multi-sectoral assistance to survivors, coordination and data collection (MSFWC, 2014). As part of the National Strategy for Combating Gender-based Violence, a special budget was being implemented to support measures to combat gender-based violence (MSFWC, 2014). The Ministry of Solidarity, Family, Women and Children was tasked with the implementation of the National Strategy (MSFWC, 2014). The two-year Strategy was not renewed after its end in 2016.

Victims mostly remain silent regarding gender-based violence and most cases are not reported to the authorities (MSFWC, 2014). Gender-based violence cases are often settled amicably through traditional justice systems, as those cases are often considered a private matter (MSFWC, 2014). Going to court is a public process and may mean for victims exposing themselves to stigma and exclusion from their families and communities (MSFWC, 2014). Additionally survivors or witnesses of gender-based violence are not provided with legal protection (MSFWC, 2014).

The military-politico crisis in 2002-2007 has caused serious human rights violations, including violence against women, and led to movements of internally displaced persons (UNOCI & HCHR, 2016). Internally displaced women are particularly vulnerable to gender-based violence (CEDAW, 2011). The post-electoral crisis in 2010 has spread an increase of gender-based violence, notably rape and sexual violence, used as a way to humiliate women and men considered political opponents (UNOCI & HCHR, 2016). The CEDAW Committee (2011) stresses that during this period, women and children were the primary victims of human rights violations and abuses.

b) Domestic violence

There is no law addressing domestic violence. The Penal Code contains several provisions under which charges can be pressed in cases of domestic violence: murder (art. 342), assault and battery (art. 345), involuntary manslaughter or unintentional injury (art. 353), rape (art. 354), indecent behaviour (art. 355), infanticide (art. 361), abandonment of a child (art. 363), kidnapping of a minor (art. 370), attack on individual freedom (art. 373), threats (art. 380), violation of domicile (art. 384), abandonment of family (art. 387). Penalties for those crimes range from three months to life imprisonment and/or a fine. The law does not provide specific provisions for investigation, prosecution and punishment of perpetrators.

The last National Strategy for Combating Gender-based Violence (2014-2016) defined domestic violence as physical, sexual, psychological and economic violence (MSFWC, 2014). It included specific measures regarding prevention, multi-sectoral services for victims, including emergency shelters and comprehensive and accessible health services, guidelines and protocols for professionals, budgetary commitments and awareness-raising and education campaigns (MSFWC, 2014). The National Committee on Combating Violence against Women and Children held weekly radio announcements to inform on hotlines for victims of sexual and domestic violence (US Department of State, 2015).

Domestic violence is pervasive in Côte d'Ivoire, is particular sexual, psychological and economic violence (ICCPR, 2015; MFFAS & UNFPA, 2008). However, it is considered an intimate problem and is

therefore rarely reported (MFFAS & UNFPA, 2008). Victims of domestic violence may additionally face social stigma if reporting the crime and families and communities tend to pressure victims to withdraw complaints (US Department of State, 2015).

c) Rape

Sexual violence and rape are addressed in the Penal Code (art. 354 & 355). The Penal Code does not include a definition of rape. It is punishable of imprisonment of five to 20 years (Penal Code, art. 354). In cases where the perpetrator is helped by other persons, is the father, an ascendant or someone in a position of authority with regards to the victim, the sentence is imprisonment for life (Penal Code, art. 354). The same sentence applies if the victim is below 15 years old (Penal Code, art. 354). Marital rape is not covered specifically by the legal framework, but a wife can file a complaint.

The National Strategy for Combating Gender-based Violence included measures such as the development of guidelines on sexual violence for police forces; reforming the justice sector and developing special training for judicial staff; the implementation of multi-sectoral services for victims, including shelters and legal assistance; awareness-raising and education campaigns on sexual violence; and fighting impunity for perpetrators (MSFWC, 2014).

Sexual violence and rape are prevalent in Côte d'Ivoire and marked by an impunity of perpetrators, due to several factors, including the collapse of judicial institutions as a result of the diverse crises between 2002 and 2011 and the absence of police forces and courts in certain regions (UNOCI & HCHR, 2016). Cases of rape that have been registered occurred mainly in familial or educational settings, within the context of the crisis or in isolated places (UNOCI & HCHR, 2016). Gang rape has reportedly risen (UNOCI & HCHR, 2016). Reports show that there is a judicial practice consisting of registering a case as rape (a crime) and then qualifying it as sexual assault or indecent behaviour (an offence), thus charges are pressed in a correctional court and not in a criminal court (UNOCI & HCHR, 2016). Police forces reportedly ask victims for a medical certificate, which is in most cases impossible for victims to deliver (UNOCI & HCHR, 2016). Victims of sexual violence and rape seldom report the crimes to the authorities as it is considered a source of dishonour and humiliation for the victim, family and community (UNOCI & HCHR, 2016). Amicable settlements outside of court are preferred by victims and their families to address cases of rape (UNOCI & HCHR, 2016).

d) Sexual harassment

The legal framework provides legal protection from sexual harassment and includes criminal penalties. The definition of sexual harassment covers specifically the workplace and is punishable of imprisonment of one to three years and a fine (Penal Code, art. 365 & Labour Code, art. 5). The definition of sexual harassment does not cover educational establishments, sporting establishments, public places and cyber harassment or cyber stalking. There is no action plan addressing sexual harassment, the law is reportedly poorly enforced and sexual harassment appears to be socially tolerated and widespread (US Department of State, 2015).

e) Female genital mutilation

The Law on Repression of Certain Forms of Violence against Women criminalises female genital mutilation (FGM) and anyone who practises FGM is punishable of imprisonment of one to five years and a fine (art. 2). The penalty is doubled when the author belongs to the medical or paramedical sector (Law on Repression of Certain Forms of Violence against Women, art. 2). Parents and close relatives who initiated the practice or knew about it and did not tell the authorities are punishable of the same sanction (Law on Repression of Certain Forms of Violence against Women, art. 4).

The National Committee on Combating Violence against Women and Children addresses cases of FGM (OFPR, 2017). Additionally, an international conference of religious leaders involved in combating FGM is held annually (OFPR, 2017). The National Strategy for Combating Gender-based Violence includes FGM as a form of violence and provides measures regarding prevention, awareness-raising activities and educational campaigns, and prosecution of perpetrators (MSFWC, 2014).

Prosecution rates are reportedly low (OFPR, 2017). A few arrests of practitioners led to amicable settlements outside of court, following the intervention of parents or community leaders. The first trial convicting traditional practitioners occurred in 2012 (OFPR, 2017).

The practice of FGM persists in Côte d'Ivoire (ICCPR, 2015). It is mainly performed by traditional practitioners or elder women (OFPR, 2017). Parents are generally the ones taking the initiative for FGM to be practised (MFFAS & UNFPA, 2008). Refusing FGM can lead to stigma and social exclusion of the mother and daughter in some communities (OFPR, 2017).

f) Abortion

Abortion on request is illegal in Côte d'Ivoire (Penal Code, art. 366). A woman who seeks an abortion is punishable of an imprisonment of six months to two years and a fine (Penal Code, art. 366). A legal abortion can only be authorised and performed by a doctor if the woman's life is in danger (Penal Code, art. 367).

More

The CEDAW Committee (2011) highlights that girls and boys are vulnerable to human trafficking and that the 2010 post-electoral crisis led to an increase in the number of women entering prostitution.

3. Restricted Access to productive and financial resources

a) Secure access to land and assets

Married women do not have the same rights as married men to own, use, make decisions and use as collateral land, property and other non-land assets (Law on Marriage, art. 79 & 81). All goods acquired, inherited or earned during the marriage are considered common goods (Law on Marriage, art. 76), and they are administered by the husband (Law on Marriage, art. 79). However, spousal consent is required for major transactions (Law on Marriage, art. 81). The law provides for joint land titling for land used or acquired by informal unions (Law on Land, art. 10).

Unmarried women have the same rights as unmarried men to own, use, make decisions and use as collateral land, property and other non-land assets (Constitution, art. 11). After divorce or separation, women and men share equal rights with regards to owning, using, making decisions and using as collateral land, property and other non-land assets (Law on Marriage, art. 108).

The government has implemented a series of measures in order to promote women's access to land and their participation in cooperatives, producer organisations and/or rural committees, such as a project to promote, protect and empower rural women through trainings and capacity-building activities for female-led cooperatives (Republic of Côte d'Ivoire, 2014).

Discriminatory customary practices restricting women's access to land continue to be applied (World Bank, 2013). Women may have to negotiate with their families or their in-laws to be granted the right to use a land plot for subsistence farming (World Bank, 2013). Customary norms regarding access to land vary across the 60 ethnic groups composing Côte d'Ivoire, but women are in general marginalised from making decisions, controlling and acquiring land (FAO, n. d.). According to traditions, no land can be registered in the name of a woman (FAO, n. d.). Additionally, land attribution within the community is often regulated by traditional institutions, such as chefs of lands or chefs of villages. Women and young people are generally excluded from those discussions (FAO, n. d.).

b) Secure access to formal financial resources

The law provides women with the same rights as men to open a bank account at a formal financial institution (Law on Marriage, art. 66) and to obtain credit (no restriction found).

Several initiatives have been implemented to increase women's access to credit by the government, such as a "Women and Development Fund" which facilitates women obtaining credit; or a programme to facilitate access to financial resources at a reduced cost for female entrepreneurs (Republic of Côte d'Ivoire, 2014).

The CEDAW Committee (2011) notes that despite initiatives aiming at increasing women's access to credit, women still face barriers to obtain credit due notably to their inability to use land as collateral.

c) Workplace rights

The Labour Code mandates non-discrimination on the basis of sex in employment and specifically covers hiring, terms and conditions, promotions, training, assignments and termination (art. 4). Additionally, the law mandates equal remuneration for work of equal value (Constitution, art. 14 & 15). However, women are prohibited from entering certain professions; a decree fixes a list of professions prohibited to women (Labour Code, art. 23. 1).

The law mandates paid maternity leave of 14 weeks, with full wages paid by the social security system (Labour Code, art. 23. 6 & 23. 11). Women's employment security is protected when they are on maternity leave (Labour Code, art. 23. 4). Fathers are allowed a two-day paid leave for the birth of a child, with full wages paid by the employer (Labour Code, art. 25. 12). The law does not mandate 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 (Constitution, art. 13, 14 & Law on Marriage, art. 67). The law does not require companies to report on how they pay women and men and there are no penalties for companies or institutions that discriminate against women in recruitment and promotion.

The government has taken several measures to increase women's participation in the workforce, such as capacity-building sessions for women responsible of cooperatives and trainings on leadership, technical and managerial skills (Republic of Côte d'Ivoire, 2014).

The CEDAW Committee (2011) stresses that working women are concentrated in the informal economy and are thus deprived of their right to social protection. Additionally, there is a pronounced horizontal segregation: women are mostly employed in sectors such as hotel and catering, retail business, cleaning and clothing industry (Republic of Côte d'Ivoire, 2014). Women tend to face barriers in accessing senior positions or decision-making positions in the private and public sector (ICCPR, 2015).

4. Restricted Civil liberties

a) Citizenship rights

The law provides married/unmarried women with the same rights as married/unmarried men to acquire, change and retain nationality (Code of Nationality, art. 12, 24 & 51). Women have the same rights as men to confer nationality to their spouse (Code of Nationality, art. 12) and children (Code of Nationality, art. 7). Married/unmarried women have the same rights as married/unmarried men to register the birth of their children (Law on Civil Status, art. 43). The Constitution does not recognise intersectional discrimination but prohibits discrimination based on race, ethnic group, clan, tribe, colour of skin, sex, region, social origin, religion or beliefs, opinion, culture, language, social situation and physical or mental health (art. 4).

Married/unmarried women have the same rights as married /unmarried men to apply for an identity card (Law on the Identification of Persons and the Stay of Foreigners in Côte d'Ivoire, art. 3) and passport, including for their minor children (Snedai, 2017). Married and unmarried women are granted the same right as married and unmarried men to travel outside the country (Constitution, art. 21).

There is no legal discrimination regarding citizenship rights and these rights do not appear to be restricted in practice.

b) Voting

The law provides married and unmarried women with the same rights as married and unmarried men to vote (Electoral Code, art. 3). In 2015, half of registered voters were women (UNSC, 2015). There is no legal discrimination regarding voting rights and there is no information to suggest that these rights are limited in practice.

c) Political voice

The law provides women with the same rights as men to hold public and political office in the legislature, executive and judiciary (Constitution, art. 85, 55 & 139). Additionally, the Constitution stipulates that the State shall promote women's participation in political life (art. 36). Despite this principle enshrined in the Constitution, there are no quotas or special measures in place to promote women's political participation at the national and local levels.

Women are more and more involved within political parties, unions, work associations and professional networks (Republic of Côte d'Ivoire, 2014). However, they remain largely underrepresented within the political and public life (ICCPR, 2015). Low female representation is noted in all instances, such as within the parliament, the government, the economic and social council, the diplomatic corps, regional advisers or municipal advisers (Republic of Côte d'Ivoire, 2014). Stereotypical perceptions of women's roles and responsibilities within society and patriarchal attitudes hinder women's access to decision-making positions in politics (CEDAW, 2011).

d) Access to justice

The law provides married/unmarried women with the same capacity as married/unmarried men to be sued and to sue and a married/unmarried woman's testimony carries the same evidentiary weight in court as a married/unmarried man's, in all types of court cases such as civil, criminal, family court and tribunal (Constitution, art. 6). The law does not include elements to ensure that women are able to exercise their rights to sue and procedural rules do not take into account the particular interests of women and girls.

The specialized body tasked with monitoring gender equality is the Ministry of Women, Children and Solidarity. The National Policy for Equality of Chances, Equity and Gender aims to promote the integration of gender in all sectors of public and private life (FAO, n. d.).

The CEDAW Committee (2011) highlights difficult access of women to justice, due notably to the collapse of the judicial system following the successive crises. Some courts did not function over the period 2001-2014 (UNOCI & HCHR, 2016). Access to legal aid is limited and NGOs and civil society organisations are the ones delivering legal consultations and assistance (UNOCI & HCHR, 2016). Women are underrepresented within political and public institutions and remain marginalised from decision-making positions, including within judicial institutions (ICCPR, 2015).

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