

Cabo Verde

1. Discrimination in the family

a) Overarching legal framework for marriage

Under the state's Civil Code, women and men have the equal right to enter into marriage (Art. 1555). Religious and customary marriages are recognized by the state (Constitution, Art. 44; Civil Code, Art. 49). Moreover, de-facto or informal unions carry legal status provided that the persons are of two different sexes, satisfy the legal requirements for marriage (e.g. are of legal age), and have been cohabitating for a period of at least three years (Civil Code, Art. 19). While bigamy is prohibited under statutory law (Civil Code, Art. 1633), de-facto polygamy is a common practice throughout the country (CEDAW, 2013; FAO, n.d.).

b) Child marriage

The legal age of marriage for girls and boys is 18 years old (Civil Code, Art. 133). The law however does allow a parent or guardian to authorize the marriage of a minor under the age of 18 years old, but over the age of 16 years old (Civil Code, Art. 1575). In exceptional circumstances, minors under the age of 16 years old may be allowed to marry provided that an official request by a legal authority is made (Civil Code, Art. 1612 & 1649).

c) Household responsibilities

Under the state's Constitution, female and male spouses are afforded equal rights and duties in a marriage (Constitution, Art. 47). This is further supported by the state's Civil Code which provides women and men equal status in the household, reiterating their equal rights and responsibilities with respect to the welfare of their children and family (Civil Code, Art. 1671-1672).

Patriarchal attitudes and discriminatory stereotypes relating to the roles and responsibilities of women and men in the family and society persist in many communities, particularly in rural areas (Human Rights Council, 2013; CEDAW, 2013). In these communities, household responsibilities are clearly distinct by gender (CEDAW, 2013). Women are often solely responsible for domestic and care work (FAO, n.d.). Single women who are heads of households are often stigmatized and lack sufficient legal protection (FAO, n.d.).

d) Divorce

By law, a divorce can be initiated by either spouse through mutual consent or on litigious grounds, such as violation of the marital duties (Civil Code, Art. 1773). The law also establishes the legal separation of persons and property as well as stipulates that parental authority should be exercised jointly by both parents (Civil Code, Art. 18; Human Rights Council, 2013). In the event that divorced parents do not come to a mutual agreement with regard to their children, the matter will be decided by the court, taking into consideration the best interests of the children (Civil Code, Art. 18). In

specific circumstances, the mother will be granted primary responsibility for the care and protection of infants up to the age of six months (FAO, n.d.).

e) **Inheritance**

Women and men have equal rights to make a will (Civil Code, Art 1685). The law also protects legal beneficiaries from disinheritance or dispossession (Civil Code, Book V Right of Succession). The law is applicable to land and non-land assets and makes no distinction on the gender of the heirs. The order of heirs includes the surviving spouse, the legitimate heirs, and the testamentary heirs (FAO, n.d.).

2. **Restricted Physical integrity**

a) **Violence against women**

In 2005, Cabo Verde ratified the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), making the commitment to promote women's rights and end violence against women.

At the national level, the state has adopted the Gender-Based Violence Act in 2011 (Act No. 84/VII/2011). The law was prepared and continues to be implemented by the Cape Verdean Institute for Gender Equality (ICIEG), with support from the Network of Women Parliamentarians. The law has three primary objectives: provide greater protection to victims, increase the penalties for perpetrators, and raise public awareness of gender-based violence (Human Rights Council, 2013). Moreover, the Act considers gender-based violence to be a public crime, so prosecution can still be initiated in the absence of a complaint (Human Rights Council, 2013). Unique to this law, a network of civil society organizations - the SOL network - was established to ensure coordination between NGOs, national police, health centres, hospitals and community law centres across multiple municipalities in the country (Human Rights Council, 2013). While the SOL network is present throughout the nine islands of Cabo Verde, there remains a lack of shelters and centres providing essential services to female victims of gender-based violence due to inadequate staffing and financial resources (US Department of State, 2017; CEDAW, 2013)

To operationalize its efforts against gender-based violence, the ICIEG also developed a National Plan to Combat Gender Based Violence, providing public institutions, civil society and partners with a coherent and systematic framework for action (Human Rights Council, 2013; UN Women, n.d.). The National Action Plan aimed to establish care networks for assistance to victims of violence; provide shelters or integrated service centres in collaboration with NGOs and CSOs; provide a coordinated response to violence against women; and provide counselling/psychological care and free health care to victims (UNECA, Cape Verde, n.d.).

Despite these legal protections, violence against women continues to be widespread in the country. Moreover, it is often not reported to legal authorities due to societal pressure from communities and families (CEDAW, 2013; FAO, n.d.). The number and nature of reported cases as well as their prosecution and conviction rates vary greatly across the municipalities (Ibid).

b) Domestic violence

Under the Penal Code the physical, mental or cruel treatment of a spouse is punishable by one to four years imprisonment (Art. 134). The 2010 revision of the Constitution reiterates criminalization of domestic violence and protection of the rights of all members of the family (Art. 82). Despite legal protection, domestic violence continues to be widespread (CEDAW, 2013; Human Rights Council, 2013).

c) Rape

Rape is a crime that falls under sexual assault by means of violence, coercion, threat, or fraud (Penal Code, Art. 141). Perpetrators may be subject to 8 to 16 years of imprisonment, depending on the severity of the crime (Penal Code, Art. 142). Spousal rape is punishable of one to five years in prison (Gender Based Violence Act of 2011, Art. 3).

In 2015, the state enacted new amendments to the Penal Code increasing penalties for those who engage in the sexual abuse, assault and exploitation of minors (US Department of State, 2017). While it is reported that the government enforced the law against rape effectively, sexual abuse is a particular concern in schools and with minors (CEDAW, 2013).

d) Sexual harassment

There are several existing protections against sexual harassment in the state's current legislation, including the Penal Code (2003) and the Labour Code (2007). Under the Penal Code, sexual harassment is defined as the abuse of authority to harass sexually another person by threats, coercion or force and is punishable by imprisonment or a fine (Art. 152). The Labour Law also prohibits sexual and emotional harassment in the workplace and places regulations on domestic work (Art. 410).

While authorities generally enforce the law, sexual harassment is common and widely accepted in Cabo Verdean culture, in particular in the workplace (US Department of State, 2017; CEDAW, 2013).

e) Female genital mutilation

To date, there is no law in place that specifically criminalises female genital mutilation. Evidence suggest it is not practiced in Cabo Verde, but may be present in immigrant communities (CEDAW, 2013).

f) Abortion

In 1986, the state legalised abortion on demand during the first 12 weeks of pregnancy (Law on the voluntary termination of pregnancies, Art. 3). After the first trimester, an abortion can be performed if: (a) the pregnancy poses a risk of death or of serious and permanent injury to the mother's health, both physical and mental; (b) if it will prevent the probable transmission of a serious hereditary or contagious illness to the foetus; or (c) if it will prevent the new-born from suffering from serious physical defects or mental disturbance (Art. 3). Legal requirements for an abortion include the woman's consent and that the procedure must be performed in a hospital with medical assistance (Art. 4 & 8). Women prisoners who have miscarried or terminated a pregnancy must, wherever

possible, receive care and treatment from a doctor with the appropriate specialization (Human Rights Council, 2013).

3. Restricted Access to productive and financial resources

a) Secure access to land and assets

Under the state's Constitution, each citizen, female and male, has the right to own, use and make decisions on their property (Constitution, Art. 66). If married, property rights are guided by different property regimes: separation of property; community of acquired property; or community of general property (Civil Code, Book on Family Law). Under the separation of property regime, each spouse owns, maintains and may make decisions on their property. Under the community of acquired property regime, the property belonging to each spouse at the time of marriage and acquired in marriage by succession or donation is owned by each spouse separately. Under the general community of property, the spouses jointly own all property belonging to each at the time of marriage and the property acquired during the marriage (Civil Code, Book on Family Law).

After a divorce or separation, depending on the matrimonial regime, the property may be amicably divided or by judicial inventory without prejudice to gender (Civil Code, Art. 1770). Moreover, a widow/widower is considered a legal beneficiary to the property of their deceased spouse (Civil Code, Art. 1958). With regard to informal unions, there are no protections in place.

The absence of a land registration system limits data availability on the situation of women's land and property rights in practice (GI-ESCR, 2013). Moreover, the absence of a land registration system prevents rural women from showing official records of property as a collateral guarantee when applying for a credit (CEDAW, 2013).

b) Secure access to formal financial resources

By law, each citizen has the right to free economic initiative, may obtain credit, and may establish and manage their own bank account, regardless of marital status (Constitution, 1992; Civil Code, Art. 1633). While women and men have equal economic rights, access varies in practice (CEDAW, 2013). In other rural communities, women's access to microcredit is supported by Cabo Verdean NGOs (Human Rights Council, 2013).

c) Workplace rights

In 1979, Cabo Verde ratified the International Labour Organization Conventions 100 and 111 and incorporated in domestic law the general principles of equal remuneration for work of equal value and non-discrimination in employment on the basis of sex (Human Rights Council, 2013). Moreover, the law stipulates that women and men have equal rights to enter the profession of their choice and to dignified working conditions, regardless of their marital status (Constitution, Art 59 & 61; Civil Code, 1997)

Under the Labour Code, women are entitled to a 60-day maternity leave paid by the government (90% of their wage) and the employer (10%) (Art. 212, 271 & 276). Men are entitled to a two-day paternity leave (Art. 186 & 189). The law does not contain provisions on parental leave.

The Labour Code (2008), contains a separate chapter on women's rights, which notably includes: protections for women working in the informal sector; provisions for working conditions that permit pregnant women/mothers to carry out their family and maternal duties; equal treatment with regard to maternity leave for women working in the private and public sectors; and protection for domestic workers, the majority of whom are women (Labour Code, Art. 212; CEDAW, 2013). The law criminalises the refusal to employ a pregnant woman, sexual harassment and emotional harassment in the workplace (Labour Code, Art. 409, 2008; Human Rights Council, 2013).

Women continue to face multiple forms of discrimination, in particular women with disabilities, older women, female-headed households and migrant women (US Department of State, 2017; CEDAW, 2013). This includes a persistent gender wage gap, occupational segregation and the lack of measures to address the situation (Freedom House, 2015; CEDAW, 2013). Discriminatory norms and traditions define gender roles in employment and lead women to choose traditionally female dominated fields in non-technical areas, including domestic work) (US Department of State, 2017). As a result, women are less likely than men to access management positions in the public or private sector (US Department of State, 2017; Human Rights Council, 2013)

4. Restricted Civil liberties

a) Citizenship rights

Under the state's Constitution, women and men have equal rights to acquire, retain and change their nationality or opt for a dual nationality (Art. 5 & 40). Moreover, both female and male citizens may confer their nationality to a foreign spouse (Laws on Marriage, Divorce and Filiation, Art. 7-8). The Nationality Code also grants women and men the right to confer their nationality to their children, including in informal unions (Laws on Marriage, Divorce and Filiation, Ch.1).

Women and men can equally register the birth of their children, regardless if the children were born in or out of wedlock (Civil Code, Title V). To promote birth registration, the state has established a network of services, (e.g. notary and civil identification records offices) in all municipalities, and launched the Birth Registration Project in local hospitals and health centres (US Department of State, 2017). Despite these services, a large number of births is not registered due to the uncertainty as to the identity of fathers, parental neglect, or a lack of information on registration in poorer communities (US Department of State, 2017; UNICEF Cabo Verde, n.d.).

The Constitution also provides women and men freedom of movement, including the authority to obtain passports and other travel documents for themselves and their children (Art. 50).

b) Voting

The state's Constitution guarantees universal suffrage to each citizen over the age of 18 and moreover encourages balanced participation of citizens of both sexes in political life (Art. 55).

c) Political voice

The right of each citizen over the age of 18 to hold public and political office is enshrined in the Constitution (Art. 55). The Electoral Code mandates a gender balance in candidate lists running for

office (Human Rights Council, 2013). The Association of Democratic Women was established in 2014 to improve female participation in Cabo Verdean politics (Freedom House, 2015).

Discriminatory cultural norms and traditions constitute an obstacle to women's participation in public and political life (US Department of State, 2017). In particular, women's participation has decreased in positions within the central government and remains low at the local level, in community associations and on city councils (US Department of State, 2017; CEDAW, 2013).

d) Access to justice

Under the state's Constitution, each citizen, female or male, has the right to access justice and the right to obtain the effective protection of his/her rights (Art. 20). Moreover, Cabo Verdean law includes elements to ensure that each citizen is able to exercise his/her right to justice, including the right to defence, counsel assistance, access to information and legal consultancy (Constitution, Art. 201). Additionally, the Ministry of Justice established "*casas do direito*" (civil rights houses) to further increase citizen's access to justice and to promote civic participation (US Department of State, 2017). These centres can receive gender-based violence cases, among others (US Department of State, 2017).

Despite these legal protections, women's access to justice is limited. Often, incidents of domestic violence or gender based violence are not reported due to pressure from communities and families (CEDAW, 2013; FAO, n.d.).

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