

Gabon

1. Discrimination in the family

a) Overarching legal framework for marriage

The Civil Code stipulates that each spouse must consent to marriage (art. 211). The Civil Code further establishes that consent is not valid if it was obtained with violence or threat (art. 212). The Penal Code punishes by imprisonment of 1 to 5 years anyone who gives to marriage or marries under customary law a non-consenting girl or if she is under 15 years old (art. 264).

The Civil Code establishes that the option of polygamy or monogamy must be decided during the first marriage by both spouses (art. 177 & 232). When there is no mention of the option chosen, the spouses are presumed to have chosen the option of polygamy (Civil Code, art. 177 & 232). If the spouses chose the option of monogamy, they can renounce it and choose the option of polygamy during marriage (art. 178). Polygamy is prevalent in Gabon (Emery, 2013).

Free unions are regulated by law, under the Civil Code (art. 377), and are defined as when a man and a woman live in the same house as husband and wife without being married. However, this legal status does not grant legal protection for matrimonial regimes and inheritance rights.

Customary marriages prevail in Gabon (Committee against Torture, 2012). Registration of customary or religious marriages is not mandatory under the law. To respond to this legal gap, a Special Commission in charge of elaborating a law on the recognition of customary and religious marriages was set up in 2011 (Committee against Torture, 2012). No information was found on the development of this law. The CEDAW Committee (2015) notes the high number of women married under unregistered customary or religious law which impedes on their rights upon the dissolution of the marriage and their inheritance rights.

The report from the Immigration and Refugee Board of Canada (2015) shows that levirate – the practice by which a widow marries the brother of her deceased husband - remains a current practice in Gabon, especially in rural areas. Furthermore, widowhood rites are still enacted (Immigration and Refugee Board of Canada, 2015). These rites include preventing the widow from bathing, forcing her to sleep on the ground, shaving her head, shaving her entire body, restricting her movements and communication with others, demanding tears from her and from other women in the family and more uncommonly, pouring excrement mixed with water on her (Immigration and Refugee Board of Canada, 2015). When refusing marriage by levirate or to undergo widowhood rites, women risk facing social exclusion from their communities and families (Immigration and Refugee Board of Canada, 2015). The family of the deceased husband can also refuse to grant inheritance rights to a widow who would refuse levirate (Immigration and Refugee Board of Canada, 2015).

A free crisis helpline, set up by the Sylvia Bongo Ondimba Foundation for the Family, is available for widows and advises on the services they need (Immigration and Refugee Board of Canada, 2015).

b) Child marriage

The Civil Code establishes the legal age of marriage at 18 years old for men and 15 years old for women (art. 203). The President of the Republic, or the President of the Supreme Court, can allow a marriage below those ages (Civil Code, art. 203). The Civil Code further stipulates that even if the conditions under article 203 are met, the man and woman who are not 21 years old must seek the consent of their father and mother to marry (art. 205). The CEDAW Committee (2015) has called for the revision of the provisions establishing a lower age of marriage for girls in comparison to boys.

c) Household responsibilities

The legal framework is discriminatory towards women in terms of household responsibilities. The Civil Code establishes the husband as the head of household (art. 253). The Civil Code further stipulates that the husband must protect his wife, and the wife must obey her husband (art. 252). By law, the husband is the one chooses where to live; the wife must live with him and the husband has to receive her (Civil Code, art. 254). The CEDAW Committee (2015) has called for the revision of discriminatory provisions within the Civil Code.

The legal framework provides married and unmarried women the same rights as men to be the legal guardian of their children and the same rights and responsibilities towards children (Civil Code, art. 494, art. 502 & art. 495).

Furthermore, there is a differential treatment between married men and women for the abandonment of the conjugal home. The married woman who, without extenuating circumstances, abandons the conjugal home is punishable by the same sentence punishing adultery (Penal Code, art. 269). The husband is punishable of one month to two years of imprisonment and/or a fine if he abandons the conjugal home, without extenuating circumstances, only if he knows his wife is pregnant (Penal Code, art. 271).

It is customary in Gabon that household responsibilities are divided along gender lines; women care for the children and the housework and the men take care of the finances (Emery, 2013).

d) Divorce

The Civil Code provides women with the same rights as men to initiate and finalise a divorce (art. 266 & 269). Fault-based divorce and divorce by mutual consent are recognised (Civil Code, art. 266). Men and women have equal rights to the legal guardian of their children after divorce (Civil Code, art. 294). Custody rights and visitation rights are established equally within the legal framework (Civil Code, art. 294). Unless it is not in the best interest of the child, both mother and father keep respectively the right to supervise the maintenance and education of the children (Civil Code, art. 294). Divorce is rare in Gabon (Emery, 2013). In practice, it is customary for fathers to have custody of their children (Emery, 2013). Considering the high number of customary marriages, women usually lose the custody of their children in case of a breakdown of marriage (Emery, 2013).

The Civil Code prohibits repudiation under article 265. However, the provision further provides that all established repudiation dispenses women from their duties of cohabitation, obeisance and fidelity and the separation of goods is established on the day of the repudiation (Civil Code, art. 265).

The CEDAW Committee (2015) notes the occurrence of the practice of repudiation in Gabon. A study from 2000-2004 shows that 15% of women reported experiencing repudiation (CEDAW, 2013).

e) Inheritance

The Civil Code grants daughters with the same rights as sons to inherit land and non-land assets (art. 687). Additionally, the Civil Code includes the surviving spouse in the line of succession (art. 671). The law provides women with the same rights as men to make a will (Civil Code, art. 818).

According to the report from the Immigration and Refugee Board of Canada (2015), the reform of the Civil Code in 2015 included the removal of discriminatory provisions – notably widows losing their usufruct of the familial property and land if she remarries outside the family. The report shows that the new provisions include: the prohibition of expelling any surviving spouses or orphans from the family residence or committing acts of violence or despoilment against them; the prohibition of preventing the surviving spouse from attending the funeral or from participating in its organisation; criminal measures for perpetrators of despoilment and other violence against any surviving spouses or orphans (Immigration and Refugee Board of Canada, 2015).

In addition, the reform of the Civil Code includes that the family council, composed of family members of the deceased and the surviving spouse and which was previously in charge of executing the succession, be replaced by an estate council, composed of the surviving spouse and descendants and their authorised representatives (Immigration and Refugee Board of Canada, 2015). Women who are not legally married but married under customary or religious laws cannot claim inheritance rights under the legal framework.

Within the Ministry of Public Health and Population, a Branch for the Protection of Widows and Orphans was created (MSPP, 2011). The Branch is tasked with informing families, in particular women, on their rights regarding inheritance. In that aim, they offer legal advices with regards to inheritance rights (MSPP, 2011).

It is reported that despoilment of widows by the family of the deceased husband is still current in Gabon (Immigration and Refugee Board of Canada, 2015). Women who face despoilment rarely report to the police (Immigration and Refugee Board of Canada, 2015). Moreover, women fear reprisal from the family of the deceased if they were to file a complaint (Immigration and Refugee Board of Canada, 2015). As a reference, a study from 2000-2004 highlights that 17% of women reported facing despoilment (CEDAW, 2013).

2. Restricted Physical integrity

a) Violence against women

There is no law addressing gender-based violence, nor any national strategy on violence against women in Gabon (CEDAW, 2015). A law on violence against women is being developed at the time of writing (African Union, 2014). The CEDAW Committee (2015) notes additionally the limited training for judges, prosecutors, lawyers, police officers and health and social workers on issues relating to

violence against women. There is also a lack of official data on prosecution and conviction rates (CEDAW, 2015).

Women often do not report the crimes due to socio-cultural barriers and few prosecutions are attained (African Union, 2014). The State has led awareness-raising campaign targeting victims of violence against women to encourage them to report and prosecute the perpetrators (African Union, 2014).

b) Domestic violence

There is no law addressing specifically domestic violence but the Penal Code includes provisions criminalising culpable homicide (chapter 1), culpable assault and battery and other violence offences (chapter 2), threats (chapter 3), involuntary homicide or assault and to omission to assist victims (chapter 5), arbitrary arrest and sequestration (chapter 6), offences against morality, including rape (chapter 7) and offences related to marriage and family (chapter 8). In cases of assault and battery, aggravated sentence is included if the victim is one of the ascendant or a child of less than 15 years old (art. 233 & 234).

There is no policy or national action plan addressing domestic violence. In terms of assistance to victims of domestic violence, there are limited medical, psychological and legal services available and shelters for women victims of violence are not provided (CEDAW, 2015). A helpline was however established for victims of violence (CEDAW, 2015). The Government led awareness-raising activities through the publication of brochures, radio and television broadcasts, lectures and provided legal support for women victims of marital violence (CEDAW, 2013).

Domestic violence is prevalent in Gabon, especially in rural areas (CEDAW, 2015). Police interventions in cases of domestic violence are rare (US Department of State, 2017). Women seldom report domestic violence to the authorities (US Department of State, 2017). A study shows that domestic violence is most common in the provinces of Ngounié and Ogooué-Lolo, with 67% of women participating in the study responding that they experienced marital violence, whether emotional, physical or sexual (DGS & ICF International, 2012). The highest proportion concerns women in the breakdown of the union (69%) (DGS & ICF International, 2012).

c) Rape

The Penal Code includes provisions criminalising sexual violence, defined as outrage to decency (art. 255 & 257 & 258). It is punishable by three months to two years of imprisonment and to three to six years of imprisonment when violence is used, when the victim is vulnerable, and when the victim is a child of 15 years or less (Penal Code, art. 255 & 257 & 258). Rape constitutes a criminal offense and is punishable of five to ten years of imprisonment (Penal Code, art. 256). If the victim is a child of 15 years or less, pregnant, sick, or handicapped, the perpetrator will be punished by life-time imprisonment (Penal Code, art. 256). The legal provisions criminalising rape do not include a broad definition of rape, nor consent.

Marital rape is not included, nonetheless a wife can file a complaint against her husband. Increased penalties for aggravated forms of rape and sexual violence are included in the law (Penal Code, art.

259). Sentences range from life sentence to ten years of imprisonment (Penal Code, art. 259). If the perpetrator is an ascendant of the victim, it is considered an aggravated form of rape. Furthermore, the Penal Code establishes that in case of a customary marriage, it is prohibited for the husband to consummate the marriage if his wife is 15 years old or less and is punishable of one to ten years of imprisonment (Penal Code, art. 265). There is no action plan, strategy or policy on sexual violence and rape.

It is estimated that 21% of women in Gabon have suffered from sexual violence at some point in their lives (DGS & ICF International, 2012). There is a lack of official data on rape victims and the number of cases prosecuted for the crime of rape (US Department of State, 2017). Women seldom report rape to official authorities as it is taboo to talk about it and for fear of shame and reprisal (US Department of State, 2017).

d) Sexual harassment

There is no law addressing sexual harassment in Gabon (World Bank, 2016). Reports from NGOs show that sexual harassment is a common issue in Gabon (US Department of State, 2017). As an indication, a study from 2000-2004 highlights that 35% of women reported experiencing verbal threats, 17% experiencing verbal abuse and 13% experiencing humiliation/denunciation or false accusations (CEDAW, 2013).

e) Female genital mutilation

The Law on Combating and Preventing Female Genital Mutilation was adopted in 2009 (CEDAW, 2015). According to a study done by UNICEF (2013) on female genital mutilation, the practice is not considered to be concentrated in Gabon.

f) Abortion

Abortion on request is illegal (Penal Code, art. 245). Women who seek or attempt to seek an abortion is punishable by imprisonment of six months to two years and a fine (Penal Code, art. 245). The law also criminalises anyone who advises, favours or helps performing an abortion (that includes medical practitioners, pharmacists, nurses, sellers of surgical material, masseurs), liable to one to five years of imprisonment and a fine (Penal Code, art. 244). If it is established that the persons involved perform abortion on a frequent basis, the increased sentence of five to ten years of imprisonment and a fine is applied (Penal Code, art. 244).

More

Gabon is a destination and transit country for trafficked women and children (HRC, 2013). The UN Special Rapporteur on Trafficking in Persons notes that girls who are trafficked into Gabon are coerced into domestic servitude, forced and servile marriages and commercial sexual exploitation (HRC, 2013). Domestic servitude is often accompanied by psychological and physical abuse (HRC, 2013). Furthermore, domestic servitude can be linked to a practice of sending rural children to cities to live with a family; in exchange for education they perform housework (HRC, 2013). In some instances, this practice may be abused and correlates with trafficking networks (HRC, 2013). Adult

women are forced into prostitution (HRC, 2013). Boys are coerced into forced labour (HRC, 2013). Trafficked girls who escape from domestic servitude often end up in prostitution and paedophilia networks (HRC, 2013).

Crimes related to human trafficking are rarely reported, notably because of a lack of knowledge of legislation, social tolerance for certain practices and fear of reprisal (HRC, 2013). The causes related to the increase in human trafficking notably because of poverty, lack of economic opportunities in source countries and a high demand for cheap and submissive labour as well as an increase of tourism and demands for sexual services (HRC, 2013).

The Special Rapporteur highlights the lack of protection for adult women who are trafficked, as the Trafficking Law protects minors under 18 years old (HRC, 2013). There are, in addition, limited availability of shelters for minors and no shelters for adult women are available (HRC, 2013).

3. Restricted Access to productive and financial resources

a) Secure access to land and assets

The legal framework provides married/unmarried women with the same rights as married/unmarried men to own, use, make decisions and use as collateral land, property and non-land assets. The Civil Code establishes that each spouse can administer and enjoy his own goods (buildings and non-buildings) and can dispose of it as they see fit (art. 340). The right to property is enshrined in the Constitution, establishing that no one can be deprived of his/her right to property (art. 1-10). After divorce or separation, the law provides equally for women and men in terms of matrimonial regimes and the separation of goods (Civil Code, art. 305). The law provides for joint land titling by married couples (Law on the regime of land ownership, art. 52).

However, the Civil Code includes a discriminatory provision establishing that marital property is administered by the husband (art. 335). The husband has to seek the consent of his wife regarding decisions for the marital property, such as to dispose of the marital property, even for the establishment of children, to earn from the rent or to use marital property as collateral (Civil Code, art. 336).

The Ministry for the Family and the Advancement of Women is planning a national survey on the socioeconomic needs of rural women in view of establishing a database and launching development programmes (CEDAW, 2013). Additionally, the Ministry has set up rural community spaces with educational talks on a variety of subjects, including hygiene, nutrition and HIV/AIDS as well as functional literacy (CEDAW, 2013).

The CEDAW Committee (2015) reports that rural women are marginalised from decision-making processes and lack access to health services, education, public transportation, nutrition, water, sanitation, economic opportunities and social benefits. Furthermore, the CEDAW Committee (2015) highlights that discriminatory customary laws regarding the acquisition of land still prevails. Women are additionally relegated to low income-generating activities in the agricultural sector (CEDAW, 2015).

b) Secure access to formal financial resources

The Civil Code establishes that a married woman who works can open a bank account on her own and administer and enjoy the income she earns (art. 262). The Civil Code stipulates that a married woman can open a bank account without the signature of her husband but the husband must be notified of the opening of the bank account and he has to give permission for debit (art. 257). The legal framework provides married and unmarried women with the same rights as married and unmarried men to obtain credit (African Union Commission, 2015).

The State has developed a programme to support rural women through micro-credit (CEDAW, 2013). It aims to identify women's organisations, support in the design and development of the project's structure, and financing the project (CEDAW, 2013). The programme also provides training in managing associations, identifying and monitoring a project, simplified accounting, and managing microcredit (CEDAW, 2013).

A report from the African Union Commission (2015) shows that parity has almost been attained with regards to access to credit. However, the report highlights that these numbers should not hide the barriers women face in obtaining credit, in addition to formal financial institutions who sometimes provide lower forms of credit instruments to women in comparison to men (African Union Commission, 2015).

c) Workplace rights

The Labour Code mandates non-discrimination on the basis of sex in employment, under article 8 which stipulates that all workers are equal before the law and benefit from the same protection and guarantees and prohibits that all discrimination with regard to employment and conditions of works on the ground of race, colour, sex, religion, political opinion, national ascendance or social origin. Art. 103 of the Labour Code establishes that all workers of both sex have equal access to training institutions. The legal framework mandates in addition equal remuneration for work of equal value (Labour Code, art. 140).

Certain professions are prohibited for women and in particular pregnant women, as decided by decrees from the Ministry of Labour and the Ministry of Health (Labour Code, art. 176). The law does not allow women to work the same night hours as men, except in special circumstances (Labour Code, art. 167 & 168).

The law mandates paid maternity leave of 14 weeks (Labour Code, art. 171). Social security provides the entirety of wages during maternity leave and free health care (Labour Code, art. 173). Workers can ask for 10 days off, in addition to annual leave, in case of familial event (Labour Code, art. 186). The totality of wages are covered by the employer in this case (Labour Code, art. 185). The legal framework does not provide for parental leave. Women's employment security is protected under the law when they are on maternity leave (Labour Code, art. 170).

While the Constitution guarantees the right to every citizen to obtain work and establishes that no one can be prejudiced in employment on the ground of origins, sex, race or opinion (art. 1-7), the Civil Code contains discriminatory provisions with regards to women's right to choose a

profession/occupation or work or to register a business. As such, article 261 stipulates that a married woman can choose her profession unless the husband asks the court to forbid her to enter into this profession.

The National Gender Equality and Equity Strategy aims to increase the economic power of women through four objectives: widen the presence of women in different sectors of production, contribute to the increase of women's production capacity, contribute to equal access to employment and the job market and ensure support for women's association (UN Women, 2010).

The CEDAW Committee (2015) notes that women are highly involved in informal work in Gabon and that the occupational segregation of women and men and the gender wage gap is persistent.

4. Restricted Civil liberties

a) Citizenship rights

The legal framework provides women with the same rights as men to acquire, change and retain nationality (Nationality Code, art. 20 & 22 & 30). The law provides women with the same rights as men to confer nationality to their children (Nationality Code, art. 11). In addition, the Nationality Code provides married women with the same rights as married men to confer nationality to their spouse (art. 20 & 22). There is no legal discrimination in terms of citizenship rights and there are no practices which may restrict those rights.

Furthermore, women and men are provided with equal rights with regards to registering the birth of their children (Civil Code, art. 170). There is no legal discrimination in terms of women's right to register the birth of their children and there are no practices which may restrict those rights.

The legal framework provides women with the same rights as men to apply for identity cards (Ministry of Interior, Security and Public Hygiene, 2017). The Constitution guarantees the right of everyone to freely come and go within and outside the national territory (art. 1-3). However, married women cannot apply for passports in the same way as men do (Ministry of Foreign Affairs, Francophonie and Regional Integration, 2017).

b) Voting

Women enjoy the same rights to vote as men (Constitution, art. 4).

c) Political voice

The principle of equality to hold public and political office is enshrined in the Constitution under article 4, which stipulates that all Gabonese of both sexes are eligible to hold public and political office.

There are no legal quotas nor temporary special measures at the national or local level to ensure the equal participation of women in political life. The State has nonetheless declared its commitment to increasing the representation of women in political life and in decision-making bodies, urging political parties to present at least 30% of women candidates on their lists (CEDAW, 2015). A law on establishing quotas of women in parliament is currently under review (CEDAW, 2015).

A network of women senators, with some UN Agencies, have provided training and awareness-raising workshops on women's leadership (African Union, 2014).

Women are still marginalised in decision-making positions in public and political office (CEDAW, 2015). The European Union Election Observation Mission notes that election equality between women and men is ensured de jure but not de facto (MOE-UE, 2016). The Mission notes the absence of female candidates during the 2016 presidential election – which is an indication of women's limited access and participation in political life (MOE-UE, 2016).

d) Access to justice

The legal framework provides women with the same capacity as men to be sued and to sue and a woman's testimony carries the same evidentiary weight in all types of court as a man's. As such, the Constitution guarantees to all the right to defend themselves in a trial (art. 1-4). Equality before the law is not expressly mentioned in the Constitution, but the text affirms its attachment to human rights and fundamental freedoms (as expressed in the Universal Declaration of Human Rights and in the African Charter on Human and Peoples' Rights). The Civil Code stipulates in addition that marriage does not impede on the legal capacity of the spouses (art. 255). Legal aid is available under the Decree on the Organisation and Functioning of Legal Aid Offices (CEDAW, 2015).

The Ministry for Equal Opportunities and the Ministry for Social and Familial Development, Social Welfare and National Solidarity are the bodies mandated to monitor gender equality in Gabon. The Ministry for Social and Familial Development includes a National Commission for the Family and the Advancement of Women. Gabon also established a National Commission on Human Rights in 2011. The CEDAW Committee (2015) notes however the limited budget allocated to the national machinery for the advancement of women. Gender focal points were established in ministries (CEDAW, 2013).

The National Commission for the Family and the Advancement of Women, along with the social services of the Ministry of Justice and the family courts, have put in place a joint programme to enhance women's access to justice (CEDAW, 2013). The programme helps women to draft a complaint and makes sure the case is followed up in the family courts (CEDAW, 2013). Additionally, the State carries out awareness-raising campaigns through notably brochures explaining women's rights and the judicial system in Gabon (CEDAW, 2013). Besides, the National Support Centre for Women's Organisations in Gabon is tasked with creating a network of NGOs and civil society organisations and providing legal training (CEDAW, 2013).

The CEDAW Committee (2015) noted the barriers women face in accessing justice, notably a lack of knowledge of their rights, the costs of legal procedures and distance to judicial structures for rural women and sociocultural barriers.

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