

The United Kingdom

1. Discrimination in the family

a) Overarching legal framework for marriage

Women and men have the same rights to marry and to start a family (art. 13 of the Constitution). Forced marriage is prohibited (art. 63A of the Forced Marriage (Civil Protection) Act; art. 13 (2) of the Constitution). England and Wales criminalise forced marriage under the Anti-social Behaviour, Crime and Policing Act. The Forced Marriage Civil Protection Act and the Forced Marriage Protection Orders aim to help protect women who feel threatened with forced marriage (Girls Not Brides, 2017). Perpetrators of forced marriage are liable for up to seven years' imprisonment, and breaching the Forced Marriage Protection Order carries a sentence of up to five years' imprisonment.

Spouses share equal rights and responsibilities during marriage and after its dissolution (art. 13 (3) of the Constitution). Only marriages registered with a national register office are valid and customary marriages are not recognized by law (Government of the United Kingdom, n.d.). A religious wedding can take place at a church, chapel or other registered religious building (Government of The United Kingdom, n.d.).

b) Child marriage

Child marriage is prohibited, but it is not penalized (Marriage Act, sec. 2). A marriage solemnized between persons either of whom is under the age of 16 shall be void (Marriage Act, sec. 2). The legal minimum age of marriage is 18 years old (Marriage Act, sec. 3). However, there are legal exceptions for marriage with parental consent between the ages of 16 and 18 (Marriage Act, secs. 2 and 3(1)).

A Bill to resolve the sanctioned child marriage loophole had passed through the House of Lords in 2016. However, according to Girls Not Brides (2017), it could not proceed to the House of Commons in the current session as there was no more room for Private Members Bills.

c) Household responsibilities

The Children Act 1989 introduces the term 'parental responsibility' instead of custody. Parental responsibility is defined as "all the rights, duties, powers, responsibilities and authority which by law a parent has in relation to the child and his property" (art. 3 (1)). According to the Children Act 1989, both spouses have parental responsibility for the child (sec. 1 (1)). If they were unmarried at the time of birth, the mother has full legal guardianship (sec. 1(4)). However, under the Scotland's Family Law Act of 2006, fathers share full parental responsibilities and rights if they jointly register their child's birth.

d) Divorce

In accordance with the Matrimonial Causes Act of 1973, amended by Family Law 1996, both women and men may seek divorce if the marriage has been permanently damaged (sec. 1 (1)). The court may dissolve a marriage (sec. 1 (2)). Spouses have equal rights and responsibilities as to initiating and finalising the dissolution of a marriage (sec. 13 (3) of the Constitution). In cases of divorce, the court decides custody based on the child's best interests and welfare (sec. 11 of the Family Law Act).

CEDAW (2013) raised concerns about the Legal Aid, Sentencing and Punishment of Offenders Act of 2012, as it unduly restricts women's access to legal aid regarding, amongst others, divorce, property disputes, housing and immigration matters. The Committee also noted that women in de facto relationships are not safeguarded in the same way married women are with regards to property rights and other benefits (CEDAW, 2013).

e) Inheritance

Surviving male and female spouses share the same rights to inherit as stated in the Provision for Family and Dependents Act 1975 (sec. 1 (2)). Under the Administration of Estates Act of 1925, as amended (which applies to England and Wales), daughters and sons share equal rights to inherit. Other relevant laws include the Scotland's Succession Act of 1964 and the Northern Ireland's Administration of Estates Act of 1955.

Northern Ireland provides women and men the same inheritance rights, however, there is de facto discrimination. According to the FAO (2017), the customary practice of transferring land to male children hinders women's access to land, due to Northern Ireland's patrilineal system of land transfer. As a result, most women in Northern Ireland do not end up inheriting farms (FAO, 2017).

2. Restricted Physical integrity

a) Violence against women

The United Kingdom took new measures to allow ratification of the of the Council of Europe Convention on preventing and combating violence against women (the Istanbul Convention) as part of the Crime Prevention and the Domestic Abuse Bill. This new legislation will enable, for example, extra-territorial jurisdiction, a measure that will cover offenses committed by British citizens overseas (UK Government, 2017).

Overarching legislation addressing violence against women can be found in the Serious Crime Act (2015), Sexual Offences Act (2003), Criminal Justice and Public Order Act (1994), Equality Act (2010) and the Female Genital Mutilation Act (2003).

The government (England, Scotland and Wales) has made efforts to adopt a strategic approach on violence against women and girls (VAWG). The National Action Plan (NAP) Ending Violence against Women and Girls (VAWG) Strategy 2016–20 pledged £80 million in funding. Legislation and progress is overseen by the Coalition Government (NAP VAWG, 2016-20).

According to CEDAW (2013), the Scottish government had committed to fund all violence against women programmes until 2015. Despite this, the Women's Aid Federation of England (Women's Aid) still had to "turn away one woman in three" (4). CEDAW (2013) raised concerns about the funding for support services, stating that it was not adequate. Additionally, there was concern about the government not fully demonstrating how it would assist local decision makers to ensure the policies will follow (CEDAW, 2013: 3).

b) Domestic violence

According to the Serious Crime Act 2015, domestic violence is prohibited (sec. 76). Legislation on domestic violence covers abuse from family members, former spouses and unmarried intimate partners (sec. 76 (2)). No specific criminal penalties for domestic violence could be located.

According to EHRC (2016), domestic violence victims face difficulties in providing proof in domestic violence in front of the court. The House of Commons Justice Committee indicated that the current evidence system does not account for other forms of abuse, such as financial and psychological abuse, which is more difficult to prove (EHRC, 2016).

Two important civil remedies are available for victims: the civil law remedies under the Family Law Act 1996 (as amended by Part 1 of the Domestic Violence Crime and Victims Act 2004) which allows for occupation orders and non-molestation orders, and the Protection from Harassment Act 1997, as amended which mandates non-harassment and restraining orders. Additionally, the Domestic Violence Protection Orders and the Domestic Violence Disclosure Scheme, often referred to as Clare's law, were both implemented across England and Wales in 2014. Under the Domestic Violence, Crime and Victims Act 2004, grants for assisting victims are covered (sec. 56).

According to the United Kingdom Government (2017), the surplus of different offenses and procedures in the statute book led to a lack of clarity and inconsistency in the use and effectiveness of legislation across the country. CEDAW (2013) stated that in relation to family law cases following domestic violence, legal aid was only available if certain evidence was provided. As a result, the conditions to meet the evidence requirements excluded some victims from accessing legal aid (CEDAW, 2013).

c) Rape

Sexual violence is prohibited under the Sexual Offences Act (2003) and the Criminal Justice and Public Order Act (1994) for England and Wales. This Act was replicated in Northern Ireland via the Sexual Offences Order 2008. In Scotland, the legal provision for rape can be found in the Sexual Offences Act 2009. The Sexual Offences Act mandates that rape, including spousal rape, is a criminal offense (sec. 1). The legal definition of rape is based on lack of consent (Sexual Offences Act, sec. 1). Rape and other offences against children under 13 are considered aggravated forms of sexual violence and are punishable for imprisonment for life (Sexual Offences Act, sec. 5).

The report "An Overview of Sexual Offending in England and Wales" was the first joint official statistics report on sexual violence released by the Ministry of Justice, Office for National Statistics and Home

Office in 2013. This report revealed that every year, about 11 rapes occur every hour, this includes assaults and attempts. Most of those who have experienced sexual violence did not report to the police, and the perpetrator was almost always someone the victim knew. Almost all the service users of Rape Crisis Centres are female (Rape Crisis England and Wales, 2017).

d) Sexual harassment

No legislation on sexual harassment in public places could be located. Legislation, civil remedies and criminal penalties exist in employment and partially in education to protect against sexual harassment. In accordance with the Equality Act 2010, legislation provides legal protection from sexual harassment (sec. 26A), including the Sexual Offences Prevention Order and Risk of Sexual Harm Order (EIGE, 2017).

The Equality Act distinguishes between gender harassment (sec. 26 (1)) and sexual harassment (sec. 26 (2)). Northern Ireland has its own equality and human rights legislation. For example, several changes were made to the Sex Discrimination (Northern Ireland) Order 1976, such as changing the definition of 'sex harassment' to prohibit unwanted behaviour that is related to a woman's sex.

The End Violence Against Women Coalition and YouGov released the first national poll on public harassment in 2016 (Stop Street Harassment, 2017). Women of all ages revealed they have experienced unwanted sexual harassment in public places, and more than half of all women had experienced unwanted sexual touching (Stop Street Harassment, 2017). Women between the ages 18-24 had the highest occurrences of sexual harassment in public spaces (Stop Street Harassment, 2017).

e) Female genital mutilation

The Prohibition of Female Circumcision Act 1985 (sec. 1 (a) (b)) and the Female Genital Mutilation Act 2003 (sec. 1 (5)) criminalize female genital mutilation (FGM) as a harmful practice. The law includes criminal penalties for the parents and medical practitioners (Serious Crime Act, art. 72). Victims may seek legal redress (Female Genital Mutilation Act, sec. 5). Protections for medical practitioners are provided if the performance of the surgical operation is necessary for the health/life of the patient or if the woman is in labour/just gave birth (Female Genital Mutilation Act, sec. 2 (1) (2)).

The government had previously launched a cross government plan against FGM in 2012, and pledged to eradicate FGM from society. Although FGM is illegal, there has never been a prosecution (CEDAW, 2013)

The report "Female Genital Mutilation in England and Wales: Update statistical estimates of the numbers of affected women living in England and Wales and girls at risk Interim report on provisional estimates 2014" provided information on the numbers of women with FGM (ranging from Type I to Type III), women with FGM giving birth, and girls born to mothers with FGM (Macfarlane and Dorkenoo, 2017). The number of women migrating from FGM practising countries to England and Wales has steadily increased, rendering FGM as strongly linked to immigrant communities (Macfarlane and Dorkenoo, 2017).

f) Abortion

Abortion is legal but not available on demand, under the Abortion Act (sec. 1). Abortion is allowed if there is justification that it the abortion is to save the women's life, to preserve the physical and mental health of the women or due to fetal inviability (Abortion Act, sec. 1(1)). Women may seek a legal abortion until the 24th week of pregnancy (Abortion Act, sec. 1).

3. Restricted Access to productive and financial resources

a) Secure access to land and assets

According to FAO (2017), the law guarantees women's same rights to own land as men. Under the Reform Married Women and Tortfeasors Act of 1935 (which applies to England and Wales), married women and men can acquire, hold and dispose any property (sec. 1). Spouses may own land or property jointly or separately (sec. 2). Nothing prevents a husband and wife from their right to exercise joint ownership power (sec. 4). The Land Registration Act of 1925, as amended (which applies to England and Wales), deals with the application procedures and effects of registering land. Similar laws apply in Scotland. Under the Northern Ireland's Married Women Act of 1952, it is prohibited to restrict or alienate married women from the enjoyment of property (FAO, 2017).

Upon divorce, the default property regime is separation of property. According to the UK government (2017), property may be split without court hearings. If a solicitor is sought out, the agreement is legally binding. Other options include using a mediator. If all the said options have been exhausted, the court may make the final decision. The Matrimonial Causes Act of 1973, amended by 1996 Family Law, deals with division of property in part II. Section 24 allows the court to order that property should be transferred from one spouse to the other.

Different laws apply in Scotland and Northern Ireland. For example, in Northern Ireland there is a distinction between the High Court and the County Court depending on the type of case. The Law Society of Northern Ireland (NI) also operates as a Dispute Resolution Service (DRS), which is not limited to court referred disputes but can be utilised at any stage of a dispute.

Under the Civil Partnership Act of 2004, informal partners share certain rights and obligations, and are subject to many of the same legal rights and responsibilities of owning property as spouses (Section 1).

According to the FAO (2017), in Northern Ireland, the customary practice of transferring land to male children hinders women's access to land, due to Northern Ireland's patrilineal system of land transfer. As a result, most women in Northern Ireland do not end up inheriting farms.

b) Secure access to formal financial resources

Women and men have the same rights to open a bank account and obtain credit (Equality Act, art. 29). There is no customary, religious, or traditional practices or laws that discriminate against these rights. However, OECD (2017) noted that women become more susceptible to financial risks in the case of divorce or separation, retirement, and pension benefits because of differences in job quality and lifetime earnings.

c) Workplace rights

The law mandates non-discrimination based on gender in hiring (Equality Act 2010, secs. 11 and 39). Women can apply for and work the same jobs as men (Labour Law, sec. 7). Women also have the rights to work the same night hours as men (Labour Law, sec. 138). Under the Equal Pay Act of 1970 and all its Amendments, women are entitled to equal pay for work of equal value (sec. 1).

The dismissal of pregnant workers is prohibited, and mothers are guaranteed an equivalent position after maternity leave (Maternity and Parental Leave Regulations 1999, Regulation 20(3)). According to the UK Government (2017), parents can take unpaid parental leave up to 18 weeks. In addition to several amending laws, Northern Ireland has two main gender discrimination laws regarding workplace rights, which are the Equal Pay Act 1970 and Sex Discrimination Order 1976.

Although the pay gap between women and men has decreased over the years, it is currently still larger than the OECD average (OECD, 2017). A new policy initiative referred to as the mandatory gender pay gap reporting, is supposed to help promote transparency and influence companies to acknowledge and initiate change regarding internal gender pay gaps (OECD, 2017). CEDAW (2013) recommended to integrate women into the work force, and to take steps in ending occupational divide (the focus of women and men in certain jobs, or in certain levels of the job) and reducing the gender pay gap.

An important gender inequality issue still facing the UK is the motherhood penalty, where a large group of British mothers are less likely to be employed than British fathers (OECD, 2017). According to EHRC (2016), pregnant women and mothers on maternity leave were illegally dismissed or treated badly enough that they felt the need to quit their job. Furthermore, it appears that many women do not understand their rights, especially in relation to what their employment rights are under the Anti-discrimination Act (EHRC, 2016).

4. Restricted Civil liberties

a) Citizenship rights

Women and men have equal rights to acquire (arts. 6-11) (art. 31 of the Constitution), change (renunciation) (art. 12) or retain British citizenship (art. 31 of the Constitution); and confer nationality to spouses (arts. 8 and 11). According to the British Nationality Act (1981), women and men have the equal right to confer their nationality to their children (secs. 1 (3) and 3). If a child is born out of wedlock, full guardianship and rights shall only apply to the mother (sec. 3 (1-6)).

In accordance with United Kingdom Government (2017), identity cards were scrapped in 2011 rendering them invalid. Women and men have the same rights to apply for passports (Government of the United Kingdom Government, n.d.). Women and men have the same right of freedom of movement (art. 16 (1) of the Constitution).

b) Voting

As stated in the Constitution, women and men have the same right to vote (sec. 15 (2)) and participate in public life and service (sec. 15 (1)).

c) Political voice

No legal quotas to promote women's political participation at any level of political life could be located.

The State party responded to CEDAW Concluding Observations by adopting temporary special measures to increase the number of women in Parliament (CEDAW, 2013). The special measures have been extended until 2030 (CEDAW, 2013). The provision allows political parties to adopt women-only shortlists for parliamentary candidates (CEDAW, 2013). The Welsh Government also has a commitment within its Programme of Government to combat the low number of women in public appointments (CEDAW, 2013). However, CEDAW (2013) noted that the government was lacking progress in incorporating more women into political life. Overrepresentation of men was particularly found in Parliament, in the judiciary and on public-sector boards (CEDAW, 2013).

d) Access to justice

Under the Reform Married Women and Tortfeasors Act of 1935 (which applies to England and Wales), women and men have equal rights in to and to be sued. The Law Reform (Husband and Wife) Act of 1962 provides both spouses the same rights of action against the other in courts (sec. 1).

CEDAW (2013) raised concerns about women's access to justice, indicating that the current set up is not effective particularly for abused women and/or those of low income. Furthermore, it is necessary to establish free or low-cost legal aid, advice and representation in judicial processes in law to ensure that justice systems are economically accessible to women (CEDAW, 2013). Civil legal aid is available in the form of advice and assistance (legal help) and representation in court (civil representation) (CEDAW, 2013).

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