

Grenada

1. Discrimination in the family

a) Overarching legal framework for marriage

Women and men are granted equal rights, within the two key pieces of legislation regarding marriage rights in Grenada, namely the Marriage Act CAP.184 and the Married Woman's Property Act CAP.186. Religious and customary marriages are required to be registered in duplicate and immediately after solemnization (Marriage Act CAP. 184, Part V, s. 27). Informal and de-facto unions do not require registration however, and are generally unregulated by law, irrespective of the period of cohabitation. Consequently, partners characterized as such do not have equal access to several rights pertaining to property, maintenance, inheritance, and general social security entitlements. The National Insurance Act CAP. 205 proves to be an exception, recognizing the right of "common-law spouses" to claim survivors' benefits as well as funeral grants on the death of the insured partner.

Forced marriage was not prohibited within these acts, nor were there any provisions which prevent harmful practices to widows.

The Grenada CEDAW 2012 report also notes with concern, evidence of harmful stereotypes and discriminatory practices in relation to the family. For example, the requirement of the father's name solely, in various administrative forms and certificates. The Grenada Gender Equality Policy and Action Plan (GEPAP 2014 - 2024), reiterates this concern citing the need to include information on the mother of the bride and groom in both the application form and marriage certificate.

b) Child marriage

The legal age for marriage is 18 years for both women and men. There exist however, exceptions that allow persons to marry under the legal age of marriage with written parental consent (The Marriage Act CAP 184, s. 20). It is further enacted that preferential treatment is placed with the father's consent. Evidently, if the father is deceased "the lawful guardian or guardians, or if there be no such guardian, the mother of such person shall have authority to consent to the marriage of such person, and such consent is hereby required unless there is no person authorised to give it resident in Grenada" (The Marriage Act CAP 184, s. 20 (2)). If parental consent is not possible due to death or proof of insanity, then consent may be acquired from a judge. Should a minor contract to marry without the requisite consent, the marriage is deemed void and the High Court may declare forfeiture of all interest in any property acquired. According to the 2016 Grenada Human Rights Report, there was however no data on marriages of persons under the age of 18 (US Department of State, 2016).

c) Household responsibilities

Women are not legally required to obey their husbands, and there is no legislative provision for the head of the household, with any distinction of gender. Legislation does however equally allow for both women and men to share responsibilities for the children, stating the duty of every man, married woman and single woman to provide reasonable maintenance to every child under the age of 16 (Maintenance Law CAP. 180, s. 3.) With respect to legal guardianship on the other hand, the law appears discriminatory. According to the GEPAP 2014, “currently, the law does not permit men to apply for custody of their children.

Women and men share equal rights in determining where to live and experience general freedom of movement irrespective of marital status, as prescribed in the Grenada 1972 constitution s. 12 (1).

Generally, women’s participation in formal employment is lower than men’s, and they are disproportionately burdened by unpaid reproductive and care work in the household. Grenada is reported to have the highest percentage of female headed households in the Eastern Caribbean, a significant number of which are susceptible to poverty. Additionally, almost a quarter of such poor households do not participate in the formal labour market (CDB, 2014).

d) Divorce

Married women and men have an equal right to initiate a divorce, as well as to finalize, and negotiate the distribution of property (United Kingdom Matrimonial Causes Act 1973, s. 24 and 25. The law on the division of assets subsequent to a divorce is also based on the UK Act, as prescribed through the West Indies Associated States Supreme Court (Grenada) Act 1971. One of the key issues that remain to be addressed however is the retention of fault grounds for divorce, according to the GEPAP 2014. Additionally, as mentioned in the above section on marriage, men are not afforded equal rights with respect to the application of custody. The national plan and policy also states the following as areas requiring some strengthening, notably: child maintenance, with specific reference to the disparities in sums awarded by different courts and garnishment of wages; and visitation, with specific reference to the rights of the child and maintenance of the relationship with his or her non-resident parent.

e) Inheritance

Women and men are afforded equal rights with respect to both land and non- land asset inheritance (The Intestate Estates Act CAP. 154, section 4). Surviving spouses, as well as all children of the deceased, generally are not legally discriminated against. In practice however, research conducted by the Caribbean Development Bank (CDB) cites “differential outcomes due to residual discriminatory laws” related to property and inheritance. Notably, as mentioned in the overview of marriage, inheritance laws are not applicable to persons in de facto or informal unions. Generally however, there has been a marked increase in the number of women inheriting land and property (CDB 2014).

Disinheritance by the surviving spouse is not prohibited by law, though every will made by a man, or woman, shall be revoked by his, or her, marriage (Wills Act CAP. 340 s. 13).

2. Restricted Physical integrity

a) Violence against women

Grenada ratified the Convention of Belem do Para in 2001. However, regional and international Conventions do not take precedence over domestic legislation (Belem Do Para Report 2014).

The main pieces of legislation related to gender based violence are the Domestic Violence Act 2010 and the Criminal Code (for Sexual Offences) Amendment Act 2012. There is reportedly significant evidence of gender-based violence in Grenada, according to records maintained by the Royal Grenada Police Force (CDB 2014). A National Action Plan was formulated to address these issues of violence, namely the Gender Equality Policy and Action Plan (GEPAP) 2014 – 2024, and is steered by the Division of Gender and Family Affairs. The plan is inclusive of specific targets and benchmarks, along with a budget and guidelines for the relevant ministries involved. The national plan and policy notes some of the following remaining challenges, in addressing violence against women: Inadequate response, reporting and investigation by the police; insufficient medical professionals trained to respond to sexual violence; insufficient social and support services; and insufficient financial and human resources, with dependency on partnerships to execute the Division's mandate.

The Ministry of Social Development has also established a Domestic Violence Unit, which was renamed the Gender-based Violence Unit in 2013, in recognition of the importance to include other forms of violence that are based on gender inequality, with sexual violence being of immediate concern. The Unit also holds responsibility for the enforcement of the Domestic Violence Act; public awareness and advocacy; and counselling services to victims and support to the Cedars Home for victims and their children. It also states the intent to establish a 24-hour helpline for victims of domestic violence (GEPAP 2014 - 2024).

Reportedly rural women are experiencing higher incidences of gender based violence than the national average, with research concluding that domestic violence is the most perpetrated form. Sexual harassment, rape and incest are also prevalent, but underreported (CDB 2014).

b) Domestic violence

Under the Domestic Violence Act a person who commits an offence is liable upon conviction to a fine not exceeding ten thousand dollars, or to a term of imprisonment not exceeding five years, or to both such fine and imprisonment. In this instance, the provisions of the act are extended to persons in de facto and informal unions, as the definition of a relationship is inclusive of present or former cohabitants. The definition of domestic abuse also specifically includes (a) physical abuse or threats of physical abuse; (b) sexual abuse or threats of sexual abuse; (c) emotional, verbal or psychological abuse; (d) economic abuse; (e) intimidation; (f) harassment; (g) stalking; (h) damage to or destruction of property. The revised Act also provides increased penalties for both first-time and repeating offenders; greater protection for victims; and provisions for granting protection orders. One remaining area which needs to be addressed is that of prosecution, for example, absentee victims, and removing

the requirement of the virtual complaint. “Criminal charges can be brought separately against the perpetrator or as a result of the breach of a protection order” (CDB 2014).

With respect to the shelter for victims of domestic violence, the following limitations have been noted in the GEPAP 2014: scarcity and/or non-allocation of psycho-social support to clients and residents, and the lack of economic support for the most vulnerable and impoverished clients upon relocating.

The National Domestic Violence and Sexual Abuse Protocol (2011), and Standard Operating Procedures for the Ministry of Social Transformation, support legislation by providing guidelines to professionals responding to gender based violence (Belem Do Para 2014).

c) Rape

Within the Criminal Code (Amendment) Act 2012, rape is defined where a person “intentionally and unlawfully commits an act which causes penetration with his or her genital organs, of another person.” An offender upon conviction of rape is liable to imprisonment not exceeding 30 years, with sexual assault carrying a term of 14 years (Criminal Code (Amendment) Act 2012 s.19). The definition of rape also extends to marital rape, which upon conviction carries a maximum penalty of 14 years (Criminal Code (Amendment) Act 2012 s.26-27). Also subject to section 19 of the act are increased penalties for aggravated forms of assault and sexual violence. These include, but are not limited to, assault of minors under the age of 13 which is punishable by up to 30 years imprisonment, and 20 years for attempted assault. For minors under the age of 16, the penalty for committing the offence is imprisonment not exceeding 15 years, with an exception for first time offenders no older than 19 years.

The legal definition of rape references female victims only. However it is worth noting that sexual abuse of minors under the age of 16 includes boys. Also of remaining concern is the continued use of sexual history of victims as evidence in court, and the requirement of corroboration of the victim’s testimony (GEPAP 2014).

d) Sexual harassment

There is presently no legislation on sexual harassment. However, a draft bill was developed, but is still awaiting cabinet approval. In the interim, the Criminal Code Amendment (Act 29 of 2012), Section 176 makes provision for Indecent Assault which carries a conviction not exceeding 10 years, and Section 178 which makes provision for Sexual Assault which carries a conviction not exceeding 14 years (CDB 2014).

e) Female genital mutilation

There is no evidence to suggest that Female Genital Mutilation is practiced in Grenada.

f) Abortion

Abortion is illegal through the provisions of Criminal Code CAP. 72 A, s. 234 that states, “whoever intentionally and unlawfully causes abortion or miscarriage shall be liable to imprisonment for ten years”. The CEDAW committee notes its concern at the high rate of unsafe abortion and subsequent complications which may be explained by the restrictive abortion law which leads women to seek

unsafe and illegal abortions, and possibly to infanticides in certain cases (CEDAW Report 2012). Though not protected by legislation, in practice government policy exists to allow exceptions to preserve a woman's mental and physical health, and also to save her life, according to the United Nations.

3. Restricted Access to productive and financial resources

a) Secure access to land and assets

Women and men in Grenada are generally afforded equal rights to access of land and non land assets, irrespective of marital status, through provisions of the Constitution including CAP.1 (1c). With respect to married women however, they are also afforded equal rights to administer (Married Woman's Property Act CAP 186 s. 2).

According to the CDB 2014 Gender Assessment, though legal access is recognized, the reality is such that men control and own the majority of the land. Additionally, while small land holders are primarily female, due to ineffective land titling, women are unable to convert their interest into a tangible asset. One possible challenge to this is that according to the GEPAP, the public does not perceive women to be at a disadvantage, citing increased inheritance and land ownership over the years. Additionally, it is reported that government has insufficient evidence regarding the gender dimensions in land related sectors such as agriculture, as evidenced in the omission of the word gender in its major assessment report (CDB 2014). This is all significant as they also state land as a primary economic factor in Grenada's predominantly agricultural economy.

b) Secure access to formal financial resources

Women and men enjoy equal legal rights and access to financial services though not explicitly subject in legislation. According to the CDB 2014 Gender Assessment, men and women have equal access to financial dealings and property ownership. They have the right to conduct financial and business matters independently, such as debt, insurance policies, and the making of a will. The Married Woman's Property Act (1896) further confers on married women the same rights as her husband, as if she were unmarried. In practice however, differential access is reported with respect to assets such as land, and credit. In the case of the National Insurance Scheme for example, housewives are particularly vulnerable and women generally have higher rates of unemployment, lower average earnings, therefore resulting in lower benefits, if at all eligible (CDB 2014).

c) Workplace rights

Non discrimination on the basis of sex in employment is mandated in accordance with the Grenada Employment Act 1999, Section 26 (1). Specifically it states that "no person shall discriminate against any employee on the grounds of sex in respect of recruitment, training, promotion, terms and conditions of employment, termination of employment or other matters arising out of the employment relationship. The CEDAW report while recognizing these provisions, remain concerned at the absence of discrimination by public and private actors in accordance with articles one and two of the Convention (CEDAW Report 2012).

With regards to maternity leave, a woman is entitled to both an allowance and a grant. A woman is paid after the birth of the child or up to six weeks before birth, at a rate of 65% of the woman's average salary, for a period of 12 weeks (3 months). Paternity and parental leave are not entitled through legislation.

A woman's employment security is legislated through the Grenada Employment Act 1999, sections 63 and 64. It explicitly notes the exercise and choice of her right to return, or not, based on the option she deems more favourable. Generally speaking, though comprehensive sector-wide sex-aggregated data on employment is lacking, observations conclude that there is gendered occupational segregation (CDB 2014). The situation is exacerbated in rural areas where the unemployment rate for women is highest (CEDAW 2012)

4. Restricted Civil liberties

a) Citizenship rights

Women and men enjoy equal rights to acquire and retain and confer nationality to spouses and children. These are afforded through the Constitution of Grenada and also the Citizenship Act CAP. 54 Part II s. 5 (3), and s. 6 (1) respectively. However, married women do not have the same rights as married men to apply for passports (Passport Act, Art. 3).

Both CEDAW and the GEPAP note with concern however, the omission of gender sensitive information required in some applications and official certificates. These forms include, but are not limited to: birth certificates that do not require equal information on both the mother and father of the child; citizenship application forms that do not require the same information on both the mother and father of the applicant; and passport forms that indicate automatic legal guardianship of children born in wedlock. Following a period of 12 months after the birth of a child, registration will only be permitted with the written authority of the Registrar-General (Registration of Births and Deaths Act CAP. 280 s. 23).

b) Voting

The Constitution of Grenada section 31 (6) affords both men and women equal right to vote. Women enjoy full participation in the voting process, with no laws or practices that serve to restrict political participation, or access to information. There is no evidence to suggest that this is an area of concern. Also, to ensure inclusivity, special measures are put in place to address physical disability and illiteracy (Representation of the People (Amendment) Act 2016).

c) Political voice

The Constitution of Grenada 1973, sections 24 and 29 allow for women to hold public office at the legislative and executive level. Persons are appointed at the judiciary level by the CARICOM Community, and requirements are gender neutral. The present Chief Justice for the Eastern Caribbean Supreme Court is notably female. Within the specific context of Grenada, the most recent election saw the highest number of female representatives, though they still remain underrepresented. Grenada is also ranked 32nd, in the Inter-Parliamentary Union global league table of female parliamentarians.

Notwithstanding the above achievements, the CEDAW committee remain concerned about the decline in the number of women being elected to Parliament, and a reduction of female leadership within political parties. It further notes that “women appear hesitant to participate due to cultural barriers.” To this end, it also expresses concern regarding the lack of quotas and temporary special measures that could be used to address this inequality (CEDAW Combined Report, 2012).

d) Access to justice

According to the national action plan and policy, while there remains an evident critical need for improved access to justice, services such as legal aid are not offered by the Government. However, a non-governmental organization, Legal Aid and Counselling Clinic, offers legal support to victims at a minimal cost. The GEPAP further notes flaws within the overall justice system, such as insensitivity and issues of delay, which also serve as cultural barriers. They cite the need for training and other forms of capacity building for prosecutors and judicial officers.

Sources

CDB (2014), Country Gender Assessment Grenada http://www.caribank.org/uploads/2014/12/CGA-Grenada_JANUARY2014_FINAL.pdf

CEDAW (2012) Concluding observations on the combined initial, second, third, fourth and fifth periodic report of Grenada <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-GRD-CO-1-5.pdf>

OAS (2014), OAS Belém Do Para Grenada Report 2014 <https://www.oas.org/es/mesecvi/docs/MESECVI-I-CE-doc.20.ing.Grenada%20Report.pdf>

OAS (2013), Assessment and Evaluation of the New Voters' Registration System in Grenada (2013) http://www.gov.gd/egov/pdf/OAS_Assessment_Evaluation_New_Voters_Registration_System_Grenada.pdf

Passport Act <http://laws.gov.gd/>

National Insurance Scheme Grenada (n.d.), <http://www.nisgrenada.org/benefits/details/maternity-benefit>

USAID (2005), Grenada: land tenure situation http://pdf.usaid.gov/pdf_docs/Pnade013.pdf

US Department of State (2016), Grenada 2016 Human Rights Report, <https://www.state.gov/documents/organization/265800.pdf>