

## Guinea

### 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 and marriage is based on consent of both spouses (Civil Code, art. 281-283). Forced marriage (Civil Code, art. 281-283) and polygamy are prohibited (Civil Code, art. 315).

However, levirate marriage (by which a widow marries her deceased spouse's sibling) is allowed and polygamy can be authorised in extenuating circumstances upon request to the Ministry of Interior under article 317 of the Civil Code. Additionally, a widow has to respect a delay of 100 days before she is allowed to remarry (Civil Code, art. 360). The law does not provide for official registration of all marriages and partnerships including customary and religious marriages or informal unions, as the Civil Code only recognises marriage celebrated by a civil officer (Civil Code, art. 201). Informal or de-facto unions are not regulated by law. Marriage is also regulated by the giving of a dowry by the husband to his wife's family (Civil Code, art. 290). The money or the goods composing the dowry are to be retained for the benefit of the woman (Civil Code, art. 291). The woman's father fixes the amount of the dowry (Civil Code, art. 292).

Abduction of a minor is criminalised under the Penal Code (art. 351). However, the provision stipulates that when the minor has married her abductor, the abductor can only be prosecuted once the annulment of the marriage has been pronounced upon the request of the appropriate persons (Penal Code, art. 351).

A new Civil Code has been drafted but as of September 2017 it has not been adopted (CEDAW, 2014).

#### b) Child marriage

The legal age of marriage for women is 17 years old and the legal age of marriage for men is 18 years old (Civil Code, art. 280). The President of the Republic upon a report from the Minister of Justice can allow a marriage below the legal age (Civil Code, art. 280). Anyone under the age of 21 years old needs the consent of their father to marry (Civil Code, art. 284). Child marriage is void (Civil Code, art. 280). Additionally, when the age difference between the spouses exceeds 30 years, the marriage can only be celebrated upon authorisation of the Minister of Interior (Civil Code, art. 284). An inter-ministerial module on the prevention of child marriage and early pregnancy has been developed for children and adolescents in schools (CEDAW, 2014).

The CEDAW Committee (2014) notes the persistence of early and forced marriage. Guinea has one of the highest rate of early marriage in Sub-Saharan Africa (MSAAWC, 2014). UNFPA (2012) reports that girls living in rural areas or who do not have access to education and resources are more vulnerable to early marriage.

### c) Household responsibilities

The law does not provide women with the same rights as men to be recognised as the head of household, as legally, the husband is the head of household (Civil Code, art. 324). Additionally, the law does not provide women with the same rights as men to be the legal guardians of their children during marriage and in informal unions (Civil Code, art. 396 & 371).

Nonetheless, women are granted with the same rights and responsibilities as men with regards to their children during marriage, as article 324 of the Civil Code stipulates that the wife ensures with the husband the moral and material direction of the family, to provide for and raise the children and prepare their establishment.

Furthermore, the law does not provide married women with the same rights as married men to choose where to live (Civil Code, art. 331). However, unmarried women are provided with the same rights as unmarried men to choose where to live, as there are no restrictions in the law.

Marriage holds high social value in Guinea and women acquire social status through marriage (Immigration and Refugee Board of Canada, 2015). Women traditionally engage and are responsible for household duties and raising the children while men are responsible for family finances and hold decision power (Emery, 2013). These gender dynamics persist mostly in rural areas (Emery, 2013). Some factors such as the labour emigration of men lead to a rise of women being head of household, even though this is in a small percentage as another male kin (for instance, the uncle or the husband's brother) is traditionally expected to become the head of household (Devey Malu-Malu, 2009).

### d) Divorce

The law provides women with the same rights as men to initiate divorce; however, women do not have the same requirements as men to finalise a divorce or annulment (Civil Code, art. 341 & 342). Fault-based divorce includes different standards of fault for wives and husbands. The husband can initiate divorce if his wife commits adultery (Civil Code, art. 341), while the wife can initiate divorce if her husband commits adultery only if he has entertained his concubine at the marital home (Civil Code, art. 342). A woman can also ask for a divorce if the husband has not paid the dowry (Civil Code, art. 343). The judge can additionally pronounce a divorce at the request of one of the spouse for abuse, refusal to perform conjugal duties or violation of the spouse's dignity but the divorce must be ruled when there is a case of "force majeure" and for reasons of absolute necessity (Civil Code, art. 344 & 345).

The law does not provide women with the same rights as men to be the legal guardians of their children after divorce or the same rights and responsibilities. The Civil Code stipulates that except in case of a special agreement between the parties, children of seven years old and older are entrusted to the father (art. 359). When the mother is granted custody, the father has to contribute (Civil Code, art. 359).

According to customary norms, fathers are usually granted custody and men are granted the largest parts of what is considered communal assets (Emery, 2013). Divorced women are often badly perceived and divorce rates are low (Devey Malu-Malu, 2009).

### **e) Inheritance**

The law provides daughters with the same rights as sons to inherit land and non-land assets (Civil Code, art. 488 & 489). However, female surviving spouses are not provided with the same rights as male surviving spouses to inherit land and non-land assets, as the Civil Code establishes special conditions for female surviving spouses (art. 484-487). Women and men are provided with the same rights to make a will (Civil Code, art. 461).

Customary norms regarding inheritance tend to be discriminatory towards women as inheritance is passed down the male line and daughters are expected to access resources through marriage (Emery, 2013). Additionally, widows tend to leave the marital home upon the death of the husband for different reasons, including levirate marriage (when a widow marries her deceased husband's brother), pressure from their in-laws or social pressure to go back to their parents' house (Immigration and Refugee Board of Canada, 2015).

## **2. Restricted Physical integrity**

### **a) Violence against women**

Guinea has ratified the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol).

There is no law addressing violence against women, including specific provisions for investigation, prosecution and punishment of the perpetrator and protection and support services for survivors.

A National Strategy to Combat Gender-Based Violence has been elaborated by the Ministry for Social Action and the Advancement of Women and Children (MSAAWC, 2013). The National Strategy includes five strategic pillars: prevention, victim's care, research, coordination and combatting specific forms of violence against women and girls (MSAAWC, 2013).

An Observatory for Gender-Based Violence has been created within the Ministry for Social Action and the Advancement of Women and Children (CEDAW, 2014). The Observatory is mandated to monitor gender-based violence, revise the national strategy and to identify the needs of the field through research and advocacy (MSAAWC, 2013).

Furthermore, within the Ministry for Security, a National Bureau for the Protection of Gender, Children and Morality has been implemented (MSAAWC, 2013). Pilot centres within police stations for cases of gender-based violence have been implemented (MSAAWC, 2013). Additionally, antennas for medical care of gender-based violence victims were established (MSAAWC, 2014).

The CEDAW Committee (2014) highlights the prevalence of multiple forms of violence against women, including domestic violence, sexual violence, rape and sexual harassment and the lack of prosecution, support for victims and public awareness. Amongst the root causes of the incidence of

violence against women, socio-cultural weight and gender stereotypes about the roles and responsibilities of women and men within the society and the family including men traditionally holding decision-making power as well as low legal literacy of women and a lack of enforcement of laws on gender-based violence can be cited (MSAAWC, 2014). A report by the Ministry for Social Action and the Advancement of Women and Children (2013) reveals that violence against women affects women in both urban and rural areas and assesses that most forms of violence against women are perpetrated by a spouse/partner or ex-spouse/ex-partner.

### **b) Domestic violence**

Domestic violence is covered under article 303 of the Penal Code, which stipulates that deliberate violence, assault and battery between spouses will be punished under the appropriate provisions in the Penal Code. Penalties for physical violence between spouses range from 16 days to five years of imprisonment (Penal Code, art. 295-298). However, article 303 of the Penal Code only refers to physical violence between spouses and does not include former partners and does not cover specifically sexual, psychological and economic violence in the domestic sphere. Furthermore, article 303 stipulates that the spouse who is a victim may stop the prosecution or the effect of the conviction by granting his/her pardon.

The National Strategy to Combat Gender-Based Violence, elaborated by the Ministry for Social Action and the Advancement of Women and Children and which covers domestic violence, includes five strategic pillars, namely prevention, victim's care, research, coordination and combatting specific forms of violence against women and girls (MSAAWC, 2013).

Domestic violence is a pervasive phenomenon in Guinea (MSAAWC, 2013). Women tend to justify violence from their husband/partner by different reasons, including their husband/partner's temper, jealousy or financial problems (MSAAWC, 2013). Additionally, women declared that when being the victim of domestic violence, they would seek help from their family or close relations (MSAAWC, 2013). Most women declared that they would not seek help from the police or the authorities (MSAAWC, 2013). Reports show that police forces are reluctant to intervene in domestic violence cases and prosecution of perpetrators is rare (US Department of State, 2016).

### **c) Rape**

Sexual violence is addressed under the Penal Code under molestation; however, penalties are only applicable if the victim is younger than 13 years old (art. 322). Rape is a criminal offense under the Penal Code and is punishable of imprisonment of five to ten years (art. 321). The attempt of rape is punishable by the same sentence (Penal Code, art. 321). The Penal Code includes increased penalties of ten to 20 years of imprisonment for aggravated forms of rape, such as if the victim is vulnerable, a minor, under the threat of a weapon, in case of gang rape, if the perpetrator is an ascendant of the victim or if the perpetrator has a power of authority upon the victim (art. 321). Marital rape is not penalised in the Penal Code, nonetheless a wife can file a complaint. The Penal Code includes a provision criminalising sexual intercourse with a child below the age of thirteen in case of a marriage celebrated according to custom (art. 302). This is punishable by two to five years of imprisonment (Penal Code, art. 302).

The Government put in place a capacity-building programme for medical and health staff on medical care and counselling for rape and sexual violence victims as well as hotlines for victims of sexual violence (MSAAWC, 2013).

Rape and sexual violence are prevalent in Guinea (MSAAWC, 2013). Victims are reportedly often reluctant to report the crimes to the authorities because of fear of retaliation and stigma as well as a lack of trust towards the investigative police (US Department of State, 2016).

#### **d) Sexual harassment**

The legal framework prohibits sexual harassment only in the workplace (Labour Code, art. 8). No worker can be sanctioned or his/her contract terminated for being a victim or refusing sexual harassment, nor the worker that testifies (Labour Code, art. 8). However, the law does not include civil remedies or criminal penalties and does not cover educational establishments, sporting establishments, public places, and cyber harassment.

Freedom House (2016) reports that sexual harassment is common but women seldom report it to the authorities due to fear of retaliation and stigma. Reports show that urban women working in the formal sector are often victims of sexual harassment (US Department of State, 2016).

#### **e) Female genital mutilation**

The Code of the Child prohibits female genital mutilation (FGM) (art. 406). Whoever, according to modern or traditional methods, performs or promotes the practice of FGM is punishable of imprisonment of three months to two years and a fine (Code of the Child, art. 407). Ascendants of the child who authorise FGM will be punished by the same sentence (Code of the Child, art. 407). Increased penalties are included in case FGM led to infirmity or death (Code of the Child, art. 408 & 409). The Code of the Child also stipulates that medical structures are obliged to provide medical assistance to victims of FGM and to inform the authorities (art. 410). Additionally, the Penal Code includes a provision criminalising mutilation of genital organs of a man or a woman which is punishable of imprisonment for life (art. 305). Furthermore, the Law on Reproductive Health also prohibits FGM (CEDAW, 2014).

The Government has elaborated a National Strategy for the Abandonment of Female Genital Mutilation (OHCHR, 2016). Awareness-raising campaigns with local authorities, customary and religious leaders and others have been led by the Government, including posters, television spots and radio messages (OHCHR, 2016). Additionally, the Ministry of Justice provided training on FGM to legal staff (OHCHR, 2016). Furthermore, a National Multi-Sectoral Coordination Committee on FGM has been created in 2011 (OHCHR, 2016). The Committee is mandated to facilitate the mobilisation of resources, to define national orientations, develop a national strategy, conduct studies and surveys and to monitor and evaluate the impact of actions taken (OHCHR, 2016).

Despite legal provisions regarding the prohibition of FGM and actions led by the Government, the CEDAW Committee (2014) stresses the “persisting very high incidence of female genital mutilation and the impunity of perpetrators and practitioners, in particular in cases involving medical professionals”. FGM is part of initiation rites to adulthood for girls and young women (OHCHR,

2016). Usually, the practice takes place in the familial home and the ceremony can gather several young girls to be excised (OHCHR, 2016). It is usually performed by traditional practitioners; however there is an increase of the involvement of medical staff in the practice (OHCHR, 2016). In some localities, medical staff perform a symbolical wound (a pinch or a scratch provoking a little flow of blood) (OHCHR, 2016). This symbolical practice is thought to be occurring in small medical centres in urban areas (OHCHR, 2016). It aims to avoid stigma for girls who are not circumcised (OHCHR, 2016).

#### **f) Abortion**

Abortion on request is not legal. A woman who seeks an abortion for herself is punishable of imprisonment of 16 days to one year and/or a fine (Penal Code, art. 307). A legal abortion can be performed by medical professionals in cases of rape or incest, foetal unviability or to save the woman's life (Penal Code, art. 308).

### **3. Restricted Access to productive and financial resources**

#### **a) Secure access to land and assets**

Regarding land, property and other non-land assets, the law provides married women with the same rights as married men to own, use, make decisions and use as collateral (Civil Code, art. 325). Additionally, regarding land, property and other non-land assets, the law provides unmarried women with the same rights as unmarried men to own, use, make decisions and use as collateral (Constitution, art. 13 & 8). Furthermore, regarding land, property and other non-land assets, women are provided with the same rights as men after divorce or separation to own, use, make decisions and use as collateral (Civil Code, art. 357 & 358).

However, regarding marital property, the husband has the legal right to administer (Civil Code, art. 324). Nonetheless, spousal consent is required for major transactions (Civil Code, art. 558). There are no restrictions in the legal framework regarding joint land titling for land used or acquired by married couples or informal unions (Land Code, art. 1). The National Policy on Agricultural Development identifies women as primary beneficiaries of the foreseen measures (Ministry of Agriculture, 2007).

The CEDAW Committee (2014) highlights the "extreme poverty and illiteracy among women in rural areas, and the limited access of rural women to land ownership, safe drinking water, health care and legal aid". Customary norms establish generally that women have usufruct right over family land but they cannot own land (Emery, 2013).

#### **b) Secure access to formal financial resources**

The law provides married women with the same rights as married men to open a bank account at a formal financial institution (Civil Code, art. 325). Additionally, married/unmarried women are provided with the same rights as married/unmarried men to obtain credit (Civil Code, art. 637 & 647).

The National Policy on Gender includes measures aimed at expanding women's access to formal financial services, including credit, such as the establishment of a guarantee fund to allow women to

obtain credit or providing financial support to NGOs and other micro-credit institutions targeting women's access to credit (MSAAWC, 2011).

Women continue to face barriers in accessing micro-credit institutions (MSAAWC, 2014). Discriminatory customary norms which do not allow women to own land constitute a barrier for obtaining credit, as they cannot use it as collateral to a credit institution (Emery, 2013). Women often resort to informal credit systems, such as "tontines" (MSAAWC, 2014). "Tontines" are an association of people (family ties, friendships, profession, clan or region) who pool their savings regularly to solve individual or collective problems (MSAAWC, 2014).

### c) Workplace rights

Guinea has ratified several of the International Labour Organisation Conventions, notably the Equal Remuneration Convention (No. 100), the Discrimination (Employment and Occupation) Convention (No. 111), and the Workers with Family Responsibilities Convention (No. 156).

The law mandates non-discrimination on the basis of sex in employment, specifically covering recruitment, hiring, terms and conditions, promotions, training, assignments and termination (Labour Code, art. 4). The legal framework additionally mandates equal remuneration for work of equal value (Labour Code, art. 241).

Women by ministerial decree are prohibited from entering certain professions if the nature of the work is considered a danger to their health or their reproductive capacity (Labour Code, art. 231). Additionally, women are not allowed to work the same night hours as men, in factories, manufactories, mines, or construction sites unless women occupy a managerial or technical position (Labour Code, art. 136).

Paid maternity leave of 14 weeks is available for women. Half of the woman's full wage is to the employer's liability, the other half is paid by the social security system (Labour Code, art. 153). The law protects women's employment security when they are on maternity leave (Labour Code, art. 153). The law does not mandate paid paternity leave. Unpaid parental leave of 38 weeks is available only to mothers (Labour Code, art. 153).

However, the law requires women to have permission from their husband to choose a profession; the Civil Code stipulates that a wife can have a profession unless her husband disagrees (art. 328). No similar restrictive provision regarding women's right to register a business could be located.

Any employee can file a complaint on the ground of sex discrimination to the appropriate jurisdiction or take the case to the labour inspectorate (Labour Code, art. 4).

The Government has implemented a programme aiming at feminising the public administration (MSAAWC, 2014). Additionally, the Government leads awareness-raising actions on women's access to decision-making positions (MSAAWC, 2014).

The CEDAW Committee (2014) stresses the feminisation of poverty and the concentration of women in the informal sector without social benefits. Women tend to occupy jobs in artefacts, as seamstress or low-level positions in administration or the private sector (Immigration and Refugee

Board of Canada, 2015). Reports show that discrimination in employment towards women is common and that combining work with family responsibilities often represent a challenge for women who are traditionally responsible for housework and taking care of the children (Immigration and Refugee Board of Canada, 2015).

## 4. Restricted Civil liberties

### a) Citizenship rights

The law provides unmarried women with the same rights as unmarried men to acquire, change and retain their nationality (Civil Code, art. 69 & 95), as well as to confer nationality to their children (Civil Code, art. 30. 2). However, the law does not provide married women with the same rights as married men to acquire, change and retain their nationality (Civil Code, art. 49, 50, 72 & 73), nor to confer nationality to their children (Civil Code, art. 30 & 31).

Additionally, the law does not provide unmarried/married women with the same rights as unmarried/married men to register the birth of their children (Civil Code, art. 194). The Civil Code allows for late registration of children and adults upon the decision of a judge (art. 193).

The Constitution does not recognise multiple or intersectional discrimination, but article 8 guarantees the same rights to women and men.

Furthermore, the law provides married/unmarried women with the same rights as married/unmarried men to apply for identity cards (Decree on Identity Cards, art. 3). The law provides married/unmarried women with the same rights as married/unmarried men to apply for passports and to acquire passports and other travel documents for their minor children (Embassy of Guinea in Canada, 2017). Women and men are granted the same rights to travel outside the country, in virtue of the freedoms and fundamental rights enshrined in the Constitution (art. 24).

### b) Voting

The law provides married/unmarried women and men with the same rights to vote (Electoral Code, art. 3). There is no legal discrimination regarding voting rights and there is no information on practices that may restrict those rights.

### c) Political voice

The law provides women with the same rights as men to hold public and political office, including legislature, executive and judiciary (Constitution, art. 60, 29 & 109). A 30% legislated candidate quota to promote women's political participation at the national level is mandated by law under article 129 of the Electoral Code. Additionally, the Electoral Code mandates 30% of reserved seats for women in the district councils and on the lists participating in Communal Council elections (art. 103 & 115). However, there are no sanctions in the law for failure to implement those measures. Incentives for political parties to include women on candidate lists at the national and local level include that 5% of the total amount of state funding for political parties will be distributed proportionally for parties where women are elected (Law on Public Funding for Political Parties, art. 4).



The CEDAW Committee (2014) notes the persisting low representation of women in the National Assembly, the Government and in public administration.

#### **d) Access to justice**

The law provides married/unmarried women with the same capacity as married/unmarried men to be sued and to sue (Constitution, art. 8 & 9). Additionally, 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, including civil, criminal, family court and tribunal (Constitution, art. 8 & 9).

The Ministry for Social Action and the Advancement of Women and Children is the specialized body tasked with monitoring gender equality (CEDAW, 2014). Gender units have been implemented in several ministerial departments (CEDAW, 2014). A national action plan on women, peace and security has been adopted (CEDAW, 2014).

The Government has implemented a paralegal project that would notably provide training for women on their rights (CEDAW, 2014). Additionally, a centre for legal aid has been established within the Ministry for Social Action and the Advancement of Women and Children (CEDAW, 2014). Training has been dispensed for magistrates on gender-based violence (MSAAWC, 2013).

The CEDAW Committee (2014) highlights that investigating judges have been appointed following the events of 28 September 2009 which saw the violent repression of opposition protesters at the Conakry stadium and on which at least 109 cases of rape and sexual violence have been confirmed. Nonetheless, the CEDAW Committee (2014) notes the persistent impunity regarding those forms of sexual violence.

However, the CEDAW Committee (2014) stresses "the persistent barriers to women's access to justice, such as the low level of legal literacy among women and the limited human, financial and technical resources to the judiciary". A report by the Human Rights Council (2014) shows that women who file complaints related to gender-based violence are often confronted with acts of intimidation and pressure from their families or communities to drop the charges or to prefer amicable settlements. Additionally, women fear being stigmatized if they choose to go through a public trial at court (Human Rights Council, 2014).

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