

## Equatorial 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 (Civil Code, art. 43-48). Forced marriage is void (Civil Code, art. 101). A marriage where consent is obtained by coercion or serious fear is considered void (Civil Code, art. 101). The law provides for official registration of religious Catholic marriages (Civil Code, art. 75-77). The law does not provide for official registration of customary marriage or informal or de-facto unions and it does not regulate informal or de-facto unions.

In Equatorial Guinea, most marriages are customary marriages which is detrimental to women with regards to child custody, division of property and inheritance (CEDAW, 2012). Additionally, women married under customary law cannot access civil courts to defend their rights (CEDAW, 2012). The CEDAW Committee (2012) reports on the persistence of levirate marriage (by which a widow will marry her brother-in-law) and mistreatment of widows as well as dowry-related violence and polygamy. Research suggests that the payment of the dowry by husbands may lead to an unequal power relationship within the marriage and husbands would assume that they have unlimited rights over their wives (Falola & Jean-Jacques, 2015). In rural areas, there is a tradition of arranged marriage by which the parents decide of the marriage of the future spouses (FAO, n. d.).

#### b) Child marriage

The legal age of marriage is 18 years old for both women and men (Civil Code, art. 45 & Constitution, art. 12). Marriage under the legal age can be allowed by a judge (Civil Code, art. 83 & 101). Child marriage is void (Civil Code, art. 45 & Constitution, art. 12). There are legal sanctions for those facilitating a marriage of an individual who is under the minimum age of marriage (Penal Code, art. 478). A judge can be penalised with a fine for allowing a marriage prohibited by law (Penal Code, art. 478).

CEDAW Committee (2012) notes that early and forced marriages continue to occur in Equatorial Guinea. Teenage pregnancies and early marriage constitute the major reasons why girls drop out of school (CEDAW, 2012).

#### c) Household responsibilities

The law does not provide women with the same rights as men to be recognised as the head of household (Civil Code, art. 57-61). The law requires a married woman to obey her husband, however there are no legal consequences if a wife disobeys her husband (Civil Code, art. 57). 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. 154). The law does not provide women with the same rights and responsibilities as men with regards to their children during marriage (Civil Code,

art. 155). Additionally, the law does not provide married women with the same rights as married men to choose where to live (Civil Code, art. 58). However, according to the Constitution, unmarried women are provided with the same rights as unmarried men to choose where to live (art. 13).

The CEDAW Committee (2012) stresses the “persistence of patriarchal attitudes and deep-rooted stereotypes concerning the roles and responsibilities of women and men in the family and society”. The CEDAW Committee (2012) further reports on the unequal participation of women and men in decision-making regarding the family. A survey reveals that amongst the female respondents who are in a union and who declared having worked within the last 12 months, 58% declared that they made the decision on how to spend the money they earned, 32% declared the decision was taken with their husband and 9% declared their husband would take the decision (Ministry of Health & ICF International, 2012). Women are often constrained to a role within the house and is responsible for domestic chores and raising the children (FAO, n. d.). Their opportunities are limited in terms of education, employment or engaging in an income-generating activity (FAO, n. d.).

#### **d) Divorce**

The law provides women with the same rights as men to initiate divorce and women have the same requirements as men to finalise a divorce or annulment (Civil Code, art. 101-105). Fault-based divorce can be filed on several grounds by either spouse, notably adultery; ill-treatment, severe injuries or abandonment of the home; violent behaviour to force a spouse to change his/her religion; if the husband forces his wife to engage in prostitution; ill-treatment towards the children; or if a spouse is condemned to imprisonment (Civil Code, art. 105). The law does not provide women with the same rights as men to be the legal guardians of their children after divorce and the law does not provide women with the same rights and responsibilities as men with regards to their children after divorce (Civil Code, art. 70-73). Women after divorce are expected to care for the children under seven years old, after which the father is granted custody (Civil Code, art. 73).

It is estimated that 90% of women, in case of a divorce, have to repay the dowry their husbands' family gave upon marriage (FAO, n. d.). Additionally, according to customary law, the husband has the custody of the children (FAO, n. d.).

#### **e) Inheritance**

The law provides daughters with the same rights as sons to inherit land and non-land assets (Civil Code, art. 74 & 807). The law provides female surviving spouses with the same rights as male surviving spouses to inherit land and non-land assets (Civil Code, art. 834). The law provides women with the same rights as men to make a will (Civil Code, art. 63).

The coexistence of civil and customary legal systems constitutes a concern with regards to equal rights in the areas of marriage, family relations and inheritance (Committee on Economic, Social and Cultural Rights, 2012). With regards to inheritance, customary law may be detrimental to women (FAO, n. d.). Most ethnic groups in Equatorial Guinea, including the Fang, Ndowne, Bissio and Anoboneses, observe a patrilineal system of inheritance passing from fathers to sons (FAO, n. d.). The Bubi on the other hand are a matrilineal group and inheritance is along the mother's line (FAO,

n. d.). According to customary law, the female surviving spouse is not allowed to inherit from her husband (FAO, n. d.).

## **2. Restricted Physical integrity**

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

Equatorial Guinea has ratified the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in African (Maputo Protocol) in 2009.

There is no law in Equatorial Guinea addressing violence against women and including specific provisions for investigation, prosecution and punishment of the perpetrator and protection and support services for victims. There is no national action plan or policy addressing violence against women.

Violence against women is believed to be widespread (Freedom House, 2016). The CEDAW Committee (2012) notes that there is a lack of information on the extent and manifestations of violence against women or on the number of investigations, prosecutions and punishment of perpetrators. Additionally, there is a lack of information on services available to victims (CEDAW, 2012).

Reports show that women in Equatorial Guinea are particularly vulnerable to forced sexual labour (Freedom House, 2016). The CEDAW Committee (2012: 6) stresses that the "oil boom has increased the phenomenon of trafficking in persons for the purposes of employment and sexual employment" and reports on the increase of the exploitation of prostitution.

### **b) Domestic violence**

Domestic violence is not a criminal offense and the legislation does not cover physical, sexual, psychological, or economic abuse from former partners or within the family. The legal framework does not include specific provisions for the prevention of domestic violence or integrated services for women and girls who have survived domestic violence, including emergency shelters, comprehensive and accessible health services or a hotline for victims.

There are no services available to victims of domestic violence, including shelters or a hotline (Immigration and Refugee Board of Canada, 2013). The Ministry of Social Affairs and Status of Women has a mediation dispute section for women victims of ill-treatments (Immigration and Refugee Board of Canada, 2013).

Domestic violence is reportedly culturally accepted in Equatorial Guinea (US Department of State, 2016). In particular, wife beating appears to be socially accepted and traditionally a man has the right to discipline his wife (Immigration and Refugee Board of Canada, 2013). Domestic violence cases are often treated by police and judicial authorities as a private matter which should be resolved within the family (US Department of State, 2016). Victims seldom report cases of domestic violence (US Department of State, 2016).

### **c) Rape**

The law does not address sexual violence. The Penal Code in Equatorial Guinea is the Spanish Penal Code from 1963. Rape is considered a criminal offense under the Penal Code and is punishable of 12 years to 20 years of imprisonment (art. 30, 429 & 430). The law is not based on lack of consent. Rape is defined as sexual intercourse when there is the use of force or intimidation, when the woman is deprived of reason or meaning for any reason or when she is less than 12 years old (Penal Code, art. 429). The law does not provide for increased penalties for aggravated forms of rape and sexual violence. The legal definition of rape does not include marital rape and a wife cannot file a complaint (Penal Code, art. 443). Furthermore, the law does not repeal discriminatory practices such as reduced sentences or escaping punishment if the perpetrator marries the victim as according to article 443 of the Penal Code, the marriage of the victim with the perpetrator cancels the criminal charges.

There is no national action plan or policy to support the implementation of the legislation on sexual violence and the law does not provide for medical support or legal assistance to survivors of sexual violence.

Victims and their families are reluctant to report rape and sexual violence (US Department of State, 2016). Additionally, reports show that cases of rape and sexual violence are often dismissed and are not adequately treated by police officers and judicial officials (US Department of State, 2016). A study shows that amongst the female respondents 32% declared having been the victims of sexual violence in the past 12 months (Ministry of Health & ICF International, 2012).

### **d) Sexual harassment**

The legal framework does not provide legal protection from sexual harassment and does not cover sexual harassment in the workplace, educational establishments, sporting establishments, public places or cyber harassment.

Sexual harassment is reportedly prevalent in schools and hinders on girls' finishing their education (CEDAW, 2012). Sexual harassment is believed to be widespread, however there is a lack of data on the incidence of sexual harassment (US Department of State, 2016).

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

There is no criminal law addressing female genital mutilation (FGM) as a harmful practice. FGM does not appear to be a practice of concern in Equatorial Guinea (UNICEF, 2013).

### **f) Abortion**

Abortion on request is illegal and a woman who seeks an abortion for herself is punishable of 12 to 20 years of imprisonment (Penal Code, art. 413). Anyone who performs an abortion without the consent of the pregnant woman is liable to 20 to 30 years of imprisonment and anyone who performs an abortion with the consent of the pregnant woman is liable to 12 to 20 years of imprisonment (Penal Code, art. 411). An abortion can be legally performed in on restricted grounds, notably to preserve the physical health of the woman or to save the woman's life (United Nations

Population Division, 2002 & Guttmacher Institute, 2016). In those cases, a medical practitioner must approve and perform the abortion in a medical facility (United Nations Population Division, 2002). It is reported that if the pregnant woman's husband or guardian is opposed to the abortion, the medical practitioner must report it to judicial authorities who will make the final decision (United Nations Population Division, 2002).

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

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

The law does provide unmarried women with the same rights as married men to own, use, make decisions or use land and non-land assets as collateral (Civil Code, art. 61). However, these rights are not guaranteed to married women. Per the Civil Code, a married woman needs to obtain the consent from her husband to acquire or dispose of her property or land (art. 61).

The law provides women and men with the same rights after divorce or separation to own, use, make decisions or use land or non-land assets as collateral (Civil Code, art. 68). Regarding marital property, a married woman does not have the same rights as a married man to administer (Civil Code, art. 59). No legal provisions were located that would restrict joint land titling for land used or acquired by married couples or informal unions.

Regarding land and property, customary law is applied in parallel with formal law (FAO, n. d.). Customary law in rural areas prevent women from inheriting and acquiring land or property (CEDAW, 2012). Most agricultural land is owned as customary family property (FAO, n. d.). The legislation regarding land recognises customary land ownership and the right of the first occupant (Constitution, art. 30). Socio-cultural dynamics hinder women's right to acquire land or property and women possess often no more than a small parcel of land or property that may include a small house (FAO, n. d.). Inheritance is mostly patrilineal, except for the Bubi group who are matrilineal (FAO, n. d.). Customary patrilineal systems of inheritance privilege sons over daughters and deprive widows of inheriting from their husbands (FAO, n. d.).

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

No legal provisions that restricts women's right to open a bank account at a formal financial institution or their rights to obtain credit were located.

Customary law is detrimental to women's access to formal financial resources, in particular to access financial credit and capital (CEDAW, 2012). Additionally, other factors such as the limited access of women to land or to a formal employment means often that they are denied access to credit (ABD, OECD & PNUD, 2017).

#### **c) Workplace rights**

Equatorial Guinea has ratified the International Labour Organisation Equal Remuneration Convention (No. 100) in 1985 and the International Labour Organisation Discrimination (Employment and Occupation) Convention (No. 111) in 2001.

The law mandates non-discrimination on the basis of sex in employment and specifically covers recruitment, terms and conditions, promotions, training and termination (Labour Code, art. 1 (3) (d)). The law mandates equal remuneration for work of equal value (Labour Code, art. 63 (1)). The law prohibits women from entering certain professions, notably women cannot engage in jobs requiring lifting weights above threshold in the same way as men (Labour Code, art. 37 (2)). The law allows women to work the same night hours as men (Labour Code, art. 56 (7)).

The law mandates paid maternity leave of 12 weeks (Labour Code, art. 59 (3) & Decree on Social Security, art. 31, 32). The law protects women's employment security when they are on maternity leave (Labour Code, art. 86 (3)). Paid paternity leave is available for three days (Labour Code, art. 59 (2)). The law does not mandate parental leave.

The law does not require women to have permission from their husband or legal guardian to choose a profession, occupation or work or to register a business (Constitution, art. 13). According to the Constitution, every citizen enjoys freedom of working (art. 13 (I)). Nonetheless, there is a limitation as according to the Civil Code, a married woman cannot sign a contract without the consent of her husband or legal guardian (art. 1262). There are no specific bodies tasked with receiving, investigating, adjudicating and enforcing complaints based on sex discrimination in employment (CEDAW, 2012).

The Ministry of Social Affairs and Status of Women (n. d.) has led an awareness-raising campaign notably on equality of opportunities.

Women participate less than men in the labour force (both formal and informal) (ABD, OECD & PNUD, 2017). Labour force participation amounts to 39% of women and 61% of men (ABD, OECD & PNUD, 2017). Estimations show additionally that 18% of women work in formal employment and 16% work in informal employment (ABD, OECD & PNUD, 2017). In certain sectors, the distribution of labour is gendered, for instance amongst the fishers in the coastal areas, men are fishermen and women are tasked with the sales at the market (Falola & Jean-Jacques, 2015). Women have additionally limited access to secondary education for several factors such as early marriages, families privileging boys going to school, teenage pregnancy and social expectations, which hinders on women's opportunities to join the formal labour market (Falola & Jean-Jacques, 2015).

## **4. Restricted Civil liberties**

### **a) Citizenship rights**

The law provides women with the same rights as men to acquire, change and retain their nationality (Law on Nationality, art. 7, 12 & 16). The law provides married women with the same rights as married men to confer nationality to their spouse (Law on Nationality, art. 5 & 6). Additionally, married/unmarried women are provided with the same rights as married/unmarried men to confer nationality to their children (Law on Nationality, art. 3). No legal provisions were located that would restrict the right of women to register the birth of their children.

The Constitution does not recognise and prohibit multiple or intersectional discrimination. Nonetheless, article 15 of the Constitution stipulates that any act of partiality or discrimination duly

found on the basis of tribe, ethnicity, gender, religion, social, political or other analogous motives is punishable by law.

There are no identity cards in Equatorial Guinea. No legal provisions were located that would restrict women's rights to apply for passports or to acquire passports and other travel documents for their minor children. The law provides married/unmarried women with the same rights as married/unmarried men to travel outside the country (Constitution, art. 13).

There is no legal discrimination regarding citizenship rights and the right to apply for a passport/identity card and it appears that there are no practices which may restrict those rights.

### **b) Voting**

The law provides married/unmarried women with the same rights as married/unmarried men to vote (Constitution, art. 2). There is no legal discrimination regarding voting and there is little information on voting practices.

### **c) Political voice**

The law provides women with the same rights as men to hold public and political office, within the legislature, the executive and the judiciary (Constitution, art. 56, 35 & 93). Article 13 of the Constitution further stipulates that on the basis of the principle of equality of the women before the law, the public powers will adopt legal initiatives and mechanisms to favour the adequate representation and participation of women in public offices and other functions in all institutions of the State.

Despite this constitutional provision, there are no legal quotas to promote women's political participation at the national or local level and there are no special measures other than quotas to promote women's political participation at the national or local level.

Women are underrepresented in the political and public life at all levels (CEDAW, 2012). Reports show that cultural barriers impede on women full participation in political and public life, in particular in rural areas (US Department of State, 2016).

### **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. 13). 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 such as civil, criminal, family court or tribunal (Constitution, art. 13). The law does not include elements to ensure that women are able to exercise their rights to sue and procedural rules do not take account of the particular interests of women and girls.

The specialized body tasked with monitoring gender equality is the Ministry of Social Affairs and Status of Women (CEDAW, 2012). The Ministry has the power to conduct education and public awareness on gender equality and women's human rights (Ministry of Social Affairs and Status of Women, n. d.).

The CEDAW Committee (2012) reports on the district delegations of the Ministry of Social Affairs and Status of Women which offer legal advice and mediation services to women victims of discrimination and domestic violence.

Women reportedly are underrepresented in the judicial branch (US Department of State, 2016).



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