

Guyana

1. Discrimination in the family

a) Overarching legal framework for marriage

The law mandates same rights for women and men to enter into marriage (Marriage Act Cap. 45:01). Forced marriage is prohibited through Marriage Act (Cap. 45:01). Harmful practices against widows are also prohibited as outlined in section 29 of the Act. Relationships which are considered to be void include a husband and any relative of his deceased wife, or the wife of any relative of her deceased husband as examples. All customary and religious marriages require registration (Marriage Act Chap. 45:01, s. 61). Informal or de facto unions are not required to be registered nor are they included in this Act.

b) Child marriage

The legal age of marriage is 18 years for both women and men (Marriage Act Chap. 45:01, s. 31 (2))

Child Marriage is void and is defined as a marriage in which either party is under age 16 (Marriage Act Chap. 45:01, s. 32 (1)) However, subsection 2 mandates that mothers or pregnant girls under the age of 16 may apply to a high court judge for permission to marry the father of the unborn child. Additionally, there are exceptions that allow children to marry under the legal age with written parental consent, including that of a guardian. Special permission may also be granted by a judge of the High Court (The Marriage Act CAP 184, s. 20).

The CEDAW (2012) highlights that early marriage is reported to be influenced by factors such as poverty and ethnicity, and is observed at higher rates amongst girls, whereas boys were encouraged to further their education and seek employment.

c) Household responsibilities

Women are not legally required to obey their husbands, and there is no legislative provision for the head of household.

The law provides women with the same rights as men to be the legal guardian of their children irrespective of marital status, and inclusive of the guardianship of their child's property (Custody, Contact, Guardianship and Maintenance Act 2011 s.30. (1)). Following a divorce, both women and men have equal right to custody in accordance with section 8 (2) of the aforementioned Act. 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 Constitution of the Co-Operative Republic of Guyana, s. 148.

d) Divorce

Married women and men have an equal rights to initiate and finalise a divorce and negotiate the distribution of property (Matrimonial Causes Act Chap. 45:02, s. 3 (1)). A decree of judicial separation may be granted on the grounds of adultery, cruelty or desertion without cause for a minimum of two years. With respect to custody following separation, women and men also share equal rights.

e) Inheritance

Women and men are entitled equal rights with respect to both land and non- land asset inheritance (Deceased Persons Estates' Administration Act Chap. 12:01). Furthermore, while disinheritance by the surviving spouse is not prohibited by law, inheritance is a constitutionally guaranteed right (Constitution of the Co-operative Republic of Guyana CAP. 1:01 s. 20). Women have the same rights as men to make a will under the Deceased Person's Estate Administration Act Chap. 12:01 s. 5 - 9

2. Restricted Physical integrity

a) Violence against women

Guyana has ratified the Convention of Belem do Para and it has been incorporated into national legislation (OAS, 2012). The main pieces of legislation on gender-based violence are the Domestic Violence Act and the Sexual Offences Act.

The agency with responsibility for oversight of these laws and policies, as well as implementation of related programming and technical advice is the Women's Affairs Bureau, operated within the Ministry of Labour, Human Services and Social Security.

b) Domestic violence

Under the Domestic Violence Act, the only explicit penalty stated relates to a breach of protection orders. An offender is liable for a fine of up to USD 10 thousand (US dollars) and a period of imprisonment not exceeding 12 months (Domestic Violence Act Cap. 11:09 s. 32 b.) The definition of domestic violence includes physical, sexual and psychological abuse, and covers family members and former partners.

Though not mandated by law, the government offer free specialised services, including a 24-hour toll free hotline for domestic violence (OAS, 2012). There is a single shelter for survivors of domestic violence, whose services include counselling and awareness and sensitization campaigns. However, the CEDAW (2012 report) raised concerns on the capacity of the shelters and limited access to the wider population, particularly rural women in hinterland areas. The national policy on domestic violence aims to address such issues. The policy also adopts a multi-sectoral approach that includes non-governmental agencies as well as various government ministries.

c) Rape

The legal definition of rape is based on lack of consent (Sexual Offences Act Cap. 8:03 s.3 (1)). Rape is a criminal offence which is punishable for up to life imprisonment. The definition of rape includes

marital rape, and the Act provides for increased penalties for aggravated forms of sexual violence such as sex with a minor and persons characterized as vulnerable adults. Sexual activity with a child under the age of 16 years is liable to five years on summary conviction, and up to 10 years upon indictment (Sexual Offences Act Cap. 8:03 s.10-11). It is reported that sentences on average range between 5 – 10 years (US Department of States, 2016).

Additional offences include causing a child to watch a sexual act, meeting a child following sexual grooming, and sexual activity with a child family member amongst others. With regard to vulnerable adults, sexual activity with a person with mental disability is life imprisonment, or if not applicable, a fine of one million dollars, and 14 years imprisonment upon indictment (Sexual Offences Act Cap. 8:03 s.22).

There is a high incidence of rape and sexual assault that is not captured in national data (US Department of State, 2016). Reasons for this include fear of stigma, lack of confidence in the authorities and reprisals (US Department of State, 2016).

d) Sexual harassment

There is no legislation on sexual harassment, though it is punishable as a common law offence (OAS, 2012). The Prevention of Discrimination Act Cap. 99:09 references sexual harassment in the workplace; however its enforceability is cited as a challenge. Sexual harassment that involved physical assault is addressed under criminal law. Generally, sexual harassment is reported to be common; however, there are no records of formal complaints or cases (US Department of State, 2016).

e) Female genital mutilation

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

f) Abortion

Abortion is legal under the provisions of the 1995 Medical Termination of Pregnancy Act (Cap. 32:05). Termination of pregnancy of less than eight weeks does not require a reason. For pregnancies between eight weeks and 16 weeks, termination is permitted given evidence that there is risk to the physical or mental health of the mother, fetal inviability, or that the pregnancy was a product of rape or incest, amongst other reasons. Termination is permitted up to over 16 weeks if a medical practitioner determines that the pregnant woman's life is at risk. The pregnant woman does not require the permission of the father of the child, nor her parents if she is a child of any age (Medical Termination of Pregnancy Act Cap. 32:05 s. 8 (3)).

3. Restricted Access to productive and financial resources

a) Secure access to land and assets

Women and men in Guyana are generally entitled equal rights to access of land and non-land assets, irrespective of marital status, through provisions of the Constitution of the Co-operative Republic of Guyana CAP. 1:01 s. 19. Regarding marital property, they are also given the equal right to administer

(Married Persons (Property) Act Cap. 45:04). This is applicable to all groups of women, with no evidence of exclusion found.

However, while not explicitly referencing land and assets, the CEDAW (2012) stated concerns for rural and remote women who may not have access to the information regarding their rights under the convention and national laws.

b) Secure access to formal financial resources

Women and men enjoy equal legal rights and access to financial services and are protected through constitutional rights, providing the right for every person to own personal property, including bank accounts (Constitution of the Co-operative Republic of Guyana CAP. 1:01 s. 19).

The CEDAW 2012 report however states an absence of information amongst women on the requirements for obtaining resources such as mortgages and other financial credit.

c) Workplace rights

Guyana has ratified few of the ILO conventions, notably the Equal remuneration convention, the domestic workers convention and the discrimination (employment and occupation) convention. Non-discrimination on the basis of sex in the workplace is mandated primarily by the Constitution and the Prevention of Discrimination Act Cap. 99:08. It specifically covers job advertisements, recruitment, hiring, terms and conditions, promotions, training and termination. The law also mandates equal pay for equal work (The Constitution of the Co-operative Republic of Guyana, CAP. 1:01 s. 22).

With regards to maternity leave, a woman is entitled to both an allowance and a grant. Maternity leave is provided at a rate of 70% of the woman's average salary, for a period of up to 13 weeks. Paternity and parental leave are not entitled through legislation. A woman's employment security is also protected through the Prevention of Discrimination Act Cap. 99:08 s 4. (2a). Enforcement of the provisions of these and other related rights, are the responsibility of the Department of Labour. The Women's Bureau Affairs operates within this overall Ministry, and as such also closely monitors the rights of women as it relates to employment-related services. Also operational is the Women and Gender Equality Commission.

With respect to the choice of profession or the registering of a business, there is no evidence to suggest that a woman requires the permission of her husband.

In the CEDAW 2012 report on Guyana, there a few identified challenges, which include inadequate information regarding work force participation in urban and rural areas, occupational segregation and the number of women with no access to social security and other benefits. Additionally, though the constitution makes provisions for equal pay, differential wages between women and men continue to be reported. Female participation in the labour market was also reported to be lower at an estimated 41.8 percent compared to 77.2 for men (UNDP, 2016).

4. Restricted Civil liberties

a) Citizenship rights

Women and men enjoy equal rights to acquire and retain nationality and to confer nationality to their spouses and children (Constitution of the Co-operative republic of Guyana Cap. 1:0). Women and men also have equal rights in acquiring national identity cards. However, married women are required to provide information on their husband and their marriage when applying for passports, while the same stipulation is not applied to married men (Republic of Guyana, n.d.).

While it is required to register a child's birth within twenty-one days, the law also made provisions for late registration, noting that children may be registered after twelve months through the assistance of the Registrar General.

The Constitution recognises several forms of discrimination; however the issue of intersectionality remains unaddressed.

b) Voting

Every person has the equal right to vote in elections, once they are of the legal age and meet other standard requirements (Constitution of the Co-operative republic of Guyana Cap. 1:01, s. 59). There was no evidence to suggest that women's access to information was of concern. However, it is also worthwhile to note that there are no special measures which consider prohibitions such as illiteracy or poverty.

c) Political voice

The law provides women with the same rights as men to hold public and political office. These include the legislature, executive and judiciary levels respectively (Constitution of the Co-operative republic of Guyana Cap. 1:01, s. 90, and 129). At this time, Guyana also is noted as being the only CARICOM territory, which has legislated quotas to promote women's political participation. For each party, women must be allocated at least one third of available positions (Representation of the People Act Cap. 1:03 s. 11 B (5)). There is little incentive for parties to adhere to the quotes upon completion of the election (Inter-Parliamentary Union, 2015).

d) Access to justice

Women and men are provided with equal capacity to sue and to be sued, irrespective of marital status. There is also no evidence to suggest that a woman's testimony in court is treated unequally to her male counterpart, and again, whether married or not.

Procedural rulings also take into account the particular interests of women and girls. In particular, witnesses are permitted to give audio testimonies without needing to be physically present in court (Evidence Act Cap. 5:03, s. 73 A). Guyana has also been commended for its efforts to increase access to justice in recent years, particularly to women in the rural and hinterland areas. "Legal aid services provided by The Georgetown Legal Aid Clinic, have been expanded to numerous regions, thereby increasing access particularly to the indigenous population and hinterland communities. The clinic is supported both by Government as well as private sources, and is significantly utilized by women

addressing cases such as domestic violence and violence against women (OAS, 2012). Capacity of rural and regional courts however, remains a challenge, and therefore limits women's ability to exercise their rights. Legal aid to these groups of women is also restricted (CEDAW Report, 2012).

Sources

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