

## Mauritania

### 1. Discrimination in the family

#### a) Overarching legal framework for marriage

Under the Personal Status Code, marriage is defined as a union between a man and a woman, requiring the free consent of both parties (Art. 1). Consent, however, is loosely defined, where the law considers “the silence of a young girl” as consent (Art. 9). According to the law, the key elements that constitute a legal marriage include the bride and groom, the guardian or the *weli* of the bride (who serves to represent her in concluding the marriage contract), the dowry or the *sadaq*, and the consent of both parties to be wed (Art. 5). Polygamy is legal, where men are allowed up to four wives with the consent of his existing spouses (Art. 28). Polygamy is rarely practiced among Moor communities, but is prevalent among other ethnic groups in the country (Emery, 2013).

Under customary law, which is not recognised by the state, a woman's first marriage requires parental consent (US Department of State, 2016). Moreover, it is customary practice that Muslim women marry those of the same faith, while Muslim men are not necessarily limited to the same restriction (Emery, 2013). There are also cultural taboos against the mixing of social classes or inter-caste unions resulting in marriages among members of the same clan (Emery, 2013; US Department of State, 2016).

#### b) Child marriage

The legal age for marriage is 18 years old for both women and men (Personal Code, Art. 6). Child marriage is prohibited and persons involved in the facilitation of the practice are subject to imprisonment and monetary fines (Juvenile Justice Code, Art. 41).

In practice, child marriage is widespread in the country. Girls are more likely to marry early if they live in rural areas, are from poorer socio-economic groups, and hold lower levels of literacy and education (Malé and Wodon, 2016). In these contexts, girls are married to socially and financially benefit their families (Immigration and Refugee Board of Canada, 2012).

#### c) Household responsibilities

The husband is considered the head of the household (Personal Code, Art. 1). The law further implies that the husband is the legal authority of the household who may make decisions on behalf of family without the consent of the wife (CEDAW, 2014).

#### d) Divorce

Under the Personal Code, both women and men have the right to initiate a divorce, however there is a significant difference under what grounds each may file for a divorce (Art. 102). A man has the unilateral right to divorce his wife without justification at any point in time. In addition, he may not be obligated to paying compensation to his wife (Personal Code, Art. 93). A woman, however, may

only divorce her husband on specific grounds, such as injury to the wife or abandonment of the husband (Personal Code, Art. 102). Additionally, women are obligated to observe the *idda*, a waiting period after the divorce, before they may legally enter into another marriage (Personal Code, Art. 111-119).

After a divorce, women also face challenges in retaining property, including both land and non-land assets (Salamata and Mamadou, 2015). Should a woman enter into another marriage, she potentially is at risk of losing custody of her child(ren) (US Department of State, 2016).

### e) Inheritance

While the law provides that women and men have the right to inheritance, their individual entitlements differ significantly. More specifically, under Sharia law, a woman may only inherit half of what is allocated to a man (Personal Status Code, Art. 253-259). Accordingly, a daughter may inherit only half of the property entitled to her male sibling (CEDAW, 2014.) In the case of family with only daughters and no sons, part of the inheritance of the deceased father is first distributed among his brothers and other members of the family and the remainder to his daughters and his wife (Anwar, 2010).

Women face additional challenges in retaining property (both land and non-land assets) in divorce and widowhood (Salamata and Mamadou, 2015), where their right to ownership of assets is often limited to objects related to women's work and daily life such as cooking and cleaning utensils (Personal Code, Art. 73-74). It may also be the case that the family of the deceased father is granted full custody of the child (rather than to the living mother), allowing his family sole rights over the child's inheritance (Anwar, 2010).

## 2. Restricted Physical integrity

### a) Violence against women

In 2005, Mauritania ratified the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), committing to the promotion of women's rights and the elimination of violence against women. At the national level, there is no law to date that comprehensively addresses violence against women. Individual laws address specific forms of violence, such as rape and female genital mutilation. Yet, with regard other forms of violence including spousal abuse and sexual harassment, there is no legal protection or remedies for women. The lack of a comprehensive legal framework to protect women and combat violence, combined with a cultural acceptance of practices that are harmful to women, have both enabled the perpetuation of violence against women in the country (CEDAW, 2014).

### b) Domestic violence

To date, there are no specific laws criminalizing domestic violence, however the government has instituted measures to prevent domestic abuse. It has developed a National Action Plan on Gender Based Violence (2014-2018) and a National Strategy for the Promotion of Women (2015-2019), both of which address violence against women; it has organized community based awareness-raising

campaigns in cooperation with civil society; and established family dispute units in all regional capitals of the country (Government of Mauritania, Reply to List of Issues, 2014). Still, given the absence of the law, women rarely seek legal redress for domestic violence, and there is limited police intervention in reported cases (US State Department, 2016). Instead, women rely on family members, community leaders and local NGOs to resolve domestic violence cases (US State Department, 2016).

Domestic violence is a pervasive problem throughout the country (US Department of State, 2016).

### c) Rape

Under the Penal Code, rape is a criminal offense and perpetrators are subject to penalties of forced labour to death penalty (Art. 309-310). The code however fails to provide an explicit definition of rape, allowing for subjective interpretation of the law and the omission of marital rape (CEDAW, 2014).

In practice, rape cases often go unreported in the country due to the social stigma attached to rape victims (MPDF, 2014; US Department of State, 2016). Further, if the rape victim is married, under Sharia law, a judge may accuse the woman of adultery or sexual intercourse outside of marriage (*zina*), and if found guilty the woman may face imprisonment (Human Rights Council, 2015; CEDAW, 2014). As a response to this, the government has enacted various awareness-raising campaigns to encourage women victims of rape to file a formal complaint, and it has provided in-service training for judges and law officers to ensure there is a clear distinction between rape victims and those who have committed *zina*' (Government of Mauritania, Reply to List of Issues, 2014). Still, impunity for rape continues to be a problem in the country, where girls held in slavery are often victims of sexual violence and assault, and rape offenders often avoid prosecution through monetary settlements outside of court (ASI, 2014; US Department of State, 2016).

### d) Sexual harassment

To date, there is no law prohibiting sexual harassment. However, it is commonly practiced, especially in the work place (US Department of State, 2016) as well as in schools, where girls are reportedly at risk of sexual harassment and abuse by teachers (CEDAW, 2014; Human Rights Council, 2015).

### e) Female genital mutilation

While there is no specific legislation prohibiting female genital mutilation (FGM), the government has instituted efforts, including legal measures, to combat the practice. Under the Juvenile Justice Code, FGM is prohibited by law and is punishable by imprisonment as well as fines ranging from 120,000 to 300,000 ouguiyas (Art. 12). The Penal Code also bans child mutilation at large (Art. 328). Moreover, the government developed a National Strategy against Female Genital Mutilation in 2008 and a draft law criminalizing FGM in 2010 (MPDF, 2014). In 2011, religious leaders in the country issued an opinion on Islamic Law (*fatwa*) forbidding FGM/C (MPDF, 2014). At the local level, the government continues to work with international organizations and local NGOs to conduct awareness and outreach campaigns to shift cultural attitudes surrounding the practice (US

Department of State, 2016). Despite these efforts, authorities seldom apply the laws pertaining to FGM (US Department of State, 2016; CEDAW, 2014). Further, there has been no movement on the approval of the draft bill criminalizing FGM (CEDAW, 2015).

FGM remains widely practiced in Mauritania, where it is prevalent among all ethnic groups to some degree and performed on young girls, sometimes as early as a week after birth (Human Rights Council, 2015; Ouldzeidoune, 2013). The practice is deeply rooted in cultural tradition where it is seen as a rite of passage or religious requirement, providing social acceptance or higher social recognition of the girl and her family, and reducing female sexual desire (Ouldzeidoune, 2013).

#### **f) Abortion**

Abortion is only permitted in order to save the life of a pregnant woman (Penal Code, Art. 293). The Penal Code stipulates that both the person performing the abortion as well as the woman who consents to the abortion are liable to 5 years of imprisonment and fines from 10 000 to 200 000 ouguiyas. Medical and paramedical personnel who conduct abortions also risk the suspension of their medical license permanently or for a minimum of five years (Penal Code, Art. 293).

#### **More**

In some ethnic groups, the practice of *leblouh* or the forced feeding of adolescent girls prior to marriage continues to persist (CEDAW, 2014). The obesity of women is a marker of both beauty and wealth in the country, and as such, the forced feeding of a young girl is a means to increase her chances of marriage (US Department of State, 2016).

Trafficking of women for sexual exploitation and forced labour is also a growing problem in the country. Yet, to date there is no comprehensive policy framework addressing these issues and offering protection to trafficking victims (CEDAW, 2014; Human Rights Committee, 2015).

While slavery is explicitly prohibited under Mauritanian law, some women in the Haratine and Afro-Mauritanian communities live under slave-like conditions and are vulnerable to sexual abuse and rape (MPDF, 2014; CEDAW, 2014; ASI, 2014).

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

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

Women and men are guaranteed equal rights to own property and land (Constitution, Art. 15; Land Reform Act, 1983). Yet, under civil law, women cannot purchase or transfer land without the authorization of a third party, generally her guardian or a male family member (CEDAW, 2014). With regard to marriage, the Personal Status Code ensures that women can manage their property, but only to a certain extent. Should a married woman give away more than a third of her property, her husband has the right to intervene (Art. 58).

Women's access to land ownership is limited, particularly in the rural regions of the country where land is key source of income (Human Rights Council, 2015; GI-ESCR, 2014). In some areas, women

are excluded from land ownership altogether for fear of losing ancestral land to people outside of their tribal or ethnic group (GI-ESCR, 2014). Compounding women's difficult access to land ownership are high poverty rates and low levels of education among women, patriarchal systems in rural areas, and the additional challenges in retaining their property after divorce or widowhood (Salamata and Mamadou, 2015). Social status and ethnicity also play a role in land ownership, making it more difficult for Haratine or Sub-Saharan African women, those traditionally associated as former slaves or descendants of slaves, to access land (Minority Rights Group International, 2015).

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

Women, regardless of marital status, have equal rights as men to open a bank account, access a line of credit, or register a business (World Bank, 2015). The government developed a National Plan of Action for Rural Women 2009 - 2012, in which it laid out specific actions to promote savings in rural communities, strengthen and develop microfinance structures and establish financial tools and financial management training programs for rural women (UNECA, 2016).

Still, women face challenges in accessing formal financial services, including the traditional roles of men as the head of the household and decision makers in the family, women's limited access to land and livestock or other assets that they could use as collateral guarantee, and the low levels of literacy and education among women (CEDAW, 2014; UNECA, 2016).

### **c) Workplace rights**

The country has ratified the international labour conventions on discrimination (C111 – Discrimination Employment and Occupation Convention, 1958) and equal remuneration (C100 – Equal Remuneration Convention, 2001) and has domesticated these into its national legislation. The labour code prohibits gender discrimination in employment and mandates equal pay for work of equal value (US Department of State, 2016; World Bank, 2015).

Women are prohibited to work in occupations that are likely to affect their health and physical integrity or injure their morality (Labour Code, Art. 247). Moreover, women are prohibited from working night hours in specific environments, including in factories, plants or mining quarries (Labour Code, Art. 166). If married, a woman may pursue a profession outside of the marital home, yet she is bound to those professions that are considered appropriate under Sharia law (Personal Code, Art. 57). Traditional interpretations of Islam require a woman to obtain the consent of her husband to leave the house and pursue employment (Mir-Hosseini, 2009). If pregnant, a woman is entitled to 14 weeks of maternity leave, fully paid for by the government, as well as job security while on leave, and breastfeeding allowances when she returns (Labour Code, Art. 39-41).

Despite these legal measures, women's participation in the formal labour market is low and they face discrimination in the workplace. In particular, there is a pronounced gender pay gap, women and young girls are vulnerable to sexual harassment (especially in domestic work which is not subject to labour inspections), and have limited access to senior or decision making positions in the public and private sectors (CEDAW, 2014). Women are overrepresented in the informal sector, where they are not protected by labour laws and have no social security (CEDAW, 2014; US State Department, 2016). Traditionally, the role of women in society is limited to household duties and

child care, discouraging many of them to seek educational or employment opportunities (Human Rights Council, 2015).

Discrimination in employment is also deeply rooted in social status and ethnicity. Women and girls from the Haratine and Afro-Mauritanian communities face intersectional discrimination (US State Department, 2016). Often, these communities live in poverty, social exclusion and have limited or no access to education or decent work (ASI, 2014). Many Haratine women are subjected to domestic servitude or forced labour, lack social protection and are more vulnerable to physical and sexual abuse and mistreatment (Human Rights Council, 2015; CEDAW 2014; US Department of State, 2016).

## 4. Restricted Civil liberties

### a) Citizenship rights

Under the Citizenship Act, nationality by birth is determined by the male parent (Art. 8-11). A woman can only transfer her nationality to her children when the father's nationality is unknown or he is stateless (Citizenship Act, Art. 8). A Mauritanian man may confer his nationality to his foreign wife but a Mauritanian woman may not (Citizenship Act, Art. 16).

Women have the equal right as men to register the birth of their child. In practice, the process of registration may be more difficult for specific groups, such as Haratine or sub-Saharan ethnic minorities (US Department of State, 2016). In addition, refugees and asylum seekers continue to face difficulties in registering their children born in Mauritania (Human Rights Committee, 2015).

Women have the equal right as men to obtain other national identity documents, including a national identity card and a passport (World Bank, 2016).

### b) Voting

The Constitution provides citizens, male and female, with equal rights to vote (Art. 3). The ability to exercise this right however varies amongst some ethnic groups, in particular those of Haratine and sub-Saharan African descent. These groups often face difficulties in obtaining national identity cards which are required for voting (US Department of State, 2016).

### c) Political voice

Under the Constitution, women and men have equal rights to hold public office. In addition, the government has instituted several measures to ensure and increase the participation of women in the public and political space. Among these include an electoral law in 2006 that requires a minimum of 20% of all municipal council seats to be reserved for women. In 2012, the country reformed the electoral law to add 51 new seats to the National Assembly, of which 20 are solely reserved for women (US Department of State, 2016). In 2013, the government introduced financial incentives for political parties that nominate more women than required by the quota for national assembly seats.

Despite these measures, women are underrepresented in public service, especially in the ministerial, judiciary and foreign service (CEDAW, 2014; MPDF, 2014). The limited access to education and employment, the lack of financial support for female political candidates, and the traditional



stereotypes of women's role in society with regard to men contribute to the low level of female political participation (ASI, 2014; CEDAW, 2014). Women from Haratine communities have particularly limited or no access to public and political life (ASI, 2014).

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

The justice system consists of courts that apply the principles of both civil and Sharia law (US Government, Report on Religious Freedom, 2016). While the Personal Status Code outlines provisions for the application of these two legal systems, judicial officials do not always abide by it (US Department of State, 2016). Under Sharia law, a woman's testimony holds half of the evidentiary weight of that of a man (MPDF, 2014). Moreover, in cases of rape, judges can accuse the victim of fornication outside marriage (*zina*), and theoretically, imprison the victim on these grounds (Human Rights Council, 2015; US Department of State, 2016).

With regard to legal proceedings, many courts are conducted in Arabic, and interpreters are not always available (US Department of State, 2016). In addition, there is inadequate legal aid and counseling available to women, a lack of training among legal and judicial officers on women's rights and gender sensitivity, and a reliance on conciliators (*mouslihines*) to settle cases outside of the formal justice system (CEDAW, 2014). As such, certain crimes against women, including rape and domestic violence, have been largely unreported due to the stigmatization of victims, the potential for imprisonment, and the low conviction rate of offenders (CEDAW, 2014). Wealthy perpetrators often avoid prosecution, or if prosecuted, avoid prison by settling outside of formal courts (US Department of State, 2016).

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