

Paraguay

1. Discrimination in the family

a) Overarching legal framework for marriage

Women in Paraguay do have the same rights as men to enter into marriage (Law N° 5419, Art. 17). The Civil Code addresses forced marriage. More specifically, a court can order the annulment of a marriage performed without the consent of one of the two spouses (Civil Code, Article 181). However, the annulment has to be done within 70 days of the marriage day.

Both civil and religious marriages are recognized by the law but religious marriage has to be held after the ceremony of civil marriage has taken place (Act N° 1266/1987, Art 87.). The law also recognizes informal partnerships *union concubinaria* (Civil Code, Article 515-8), and the latter are regulated by law (Civil Code, art 217). The Constitution limits marriage and de facto unions to heterosexual couples.

b) Child marriage

In 2015, Act No. 5419/15 amending articles 17 and 20 of Act No. 1/92 of the Civil Code raised the age of consent to marriage to 18 years old for both sexes, although minors may marry from the age of 16 with the consent of their parents, their guardians or a judge (Law N° 5419, Art. 17). Before the amendment, the age of consent was 14 for girls and 16 for boys. Child marriage is not automatically void but a court can order the annulment of the marriage, if requested (Civil Code, Article 181). In addition, according to Art 149 of the Civil Code, if a minor gets married without the consent of his/her parents or legal guardian, the matrimonial property regime applicable by default is separation of property. This is clear evidence that early marriage is very common in Paraguay. Indeed, the rate of people married before the age of 18 is 18%. In rural areas, children are married earlier than those in urban areas (Council on Hemispheric Affairs, 2011).

Teen pregnancy is also a very common phenomenon in Paraguay and young women are nowadays more likely to have a child during adolescence than were teens during the 1970s. This phenomenon has an important impact on girl's health as nearly 20% of adolescent female deaths in Paraguay are attributable to complications of pregnancy or childbirth (Advocates for Youth, n.d.). Although legislation had been adopted (Act No. 4084/2010) to protect young, pregnant women and to help them to continue their education, the social stigma attached to teenage pregnancy meant that many girls who became pregnant were expelled from school (CEDAW, 2011).

c) Household responsibilities

The National Constitution of Paraguay explicitly recognizes equality between men and women in terms of civil, political, economic, social and cultural rights. In addition, there is full equality before the law in terms of the recognition, enjoyment and exercise of civil rights between men and women, recognized in Law N° 236/54. Under these amendments, men and women have identical legal

capacity, either as single persons or in a relation of marriage and cohabitation. These include the same rights as men to be recognized as head of the household (Law N° 236/54- Art. 1)

The Civil Code also grants both the mother and father equal rights and responsibilities to their children during and after marriage or informal unions (Law N° 236/54- Art. 5, Children and Adolescents' Code, Art 70).

Discrimination due to socioeconomic status, sexual orientation and gender identity continues in the schools, reproducing stereotypes and traditional roles for women, in particular in relation with their role within the household (CEDAW, 2017).

d) Divorce

Divorce was legalized in 1992 (Act No. 45/91 on divorce). Prior to this, there was a tendency to enter into a common-law relationship because such a union was easy to dissolve (CEDAW, 2011). With reference to the rights and responsibilities related to marriage and divorce, Act No. 5422/15 has amended Act No. 45/91 on divorce, eliminating the three-year period required before a couple may apply for separation (CEDAW, 2016).

Both spouses have the same rights in terms of marital separation (Act. 45/91, Art 4). The law also grants both the mother and father equal rights and responsibilities to their children during and after marriage (Law on Minors, Art.74).

Evidences show that there is still a stigma attached to divorce as the Paraguayan culture is patriarchal. In addition, there is a lack of information around it as the rate of illiteracy, particularly amongst women is high in the country. Therefore, many women do not divorce because they are simply not aware that it is possible. Also, while divorce is legal, there are costs associated with divorce proceedings which make it difficult to afford for most women, particularly in rural areas (CEDAW, 2011).

e) Inheritance

Daughters and female surviving spouses have the same rights as sons and male surviving spouses to inherit land and non-land assets (Civil Code, Art.2586). However, in the case of de facto union, proof of cohabitation must be provided for a common-law wife or husband to inherit under civil or agrarian legislation.

Women also have equal rights to execute or administer a will (Civil Code, Article 2608). There is no provision in the Civil Code regarding disinheritance of the surviving spouse.

More

Paraguay recognizes plural legal systems by granting indigenous population their right to draw on customary law. The country has a constitutional framework (Constitution, Art 63) in which the rights of indigenous peoples are recognized and it guarantees the right of indigenous peoples to preserve and develop their “ethnic identity in their respective habitat” as well as applying customary norms for the regulation of their internal coexistence. Those norms are applicable as long as they do not “infringe upon the fundamental rights established in the Constitution”. In case of conflicting laws, indigenous

customary law is “taken into account”. It is not clear to what extent indigenous customary laws are discriminatory towards women; little information is currently available on the subject.

2. Restricted Physical integrity

a) Violence against women

In 1995, Paraguay ratified the Convention of Belem do Para through Act No. 605; and in December 2016, the Chamber of Deputies issued Law 5.777 on comprehensive protection of women from all forms of violence. Femicide was recognized as a distinct criminal offence punishable by a minimum of 10 years’ imprisonment. A ban on requiring conciliation between victims of violence and offenders was also approved (but with the condition that a protection order had previously been issued) (Law 5.777).

In 2012, Act No. 4675 created the Ministry for Women’s Affairs which resulted in a greater ability to influence the Executive and other State bodies, including the Social Affairs Office, through political dialogue; and mainstreaming of gender into the main plans of the Government. The new structure actively supports activities against gender-based violence and trafficking in women. Furthermore, two shelters and four regional centres in the interior of the country are fully operational (CEDAW, 2016).

In addition to the creation of the Women’s Bureau, Paraguay formulated a National Plan on Violence against Women 2015-2020 which promotes policies to improve the situation along with specific targets and goals to meet by 2020. For instance, its chapter VI includes a specific plan called “A life free of violence” aiming to prevent and sanction violence against women in all its form (UN Women, 2017). It also specifies the type of budget available for each target. Certain measures are financed with the help of international cooperation agencies. Implementation of this plan also engages other institutions, such as the Ministries of Justice and Labour, Education and Culture, Public Health and Social Welfare, the General State Prosecutor’s Office, the National Police Force, the Office of the Governor of Asunción, and the Paraguayan Women’s Coordination Unit, all of them coordinated by the Women’s Bureau.

With regard to the National Police, dedicated divisions receive complaints of violence against women, children and adolescents in 15 specialized police stations that have been set up in various departments of the country.

The Ministry for Women’s Affairs has promoted national and regional linkages to guide the activities of various cooperating institutions towards optimizing the provision of services and taking comprehensive action by means of the following legal tools: a regional protocol for gender-sensitive investigations into intra-family offences involving violence against women, a regional protocol for comprehensive care for victims of gender-based violence, and institutional coordination mechanisms on gender-based violence. Along the same lines, awareness-raising and dissemination activities have included a workshop to validate a gender-sensitive case-law thesaurus; a campaign entitled *Decí Igualdad* to promote equality and prevent discrimination against women in the justice system (CEDAW, 2016) as well as a study conducted on the cost of violence against women in companies (UN Women, 2017).

Certain social behaviours still hinder women's ability (particularly indigenous women) to report and denounce cases of violence. Evidences show that indigenous women are facing discrimination from both non-indigenous persons and indigenous men, in the civil service and in police stations. This situation impairs their ability to lodge complaints when they are victims of criminal offences or witnesses of such offences, including violence (United Nations, 2015).

b) Domestic violence

The Domestic Violence Act No. 1600/00 provides a civil remedy establishing urgent protection measures for victims of physical, psychological or sexual injury or maltreatment. The magistrates' courts responsible for such protection take action to exclude aggressors from the home; to prohibit aggressors from approaching victims; in case it is the latter who leave the home, to permit removal of their belongings and those of their minor children; to enable victims to return to their home; and other similar provisions.

In addition to the measures provided by Act No. 1600, art 229 of the Criminal Code mandates fines for domestic violence. However, these measures do not include the possibility of recourse to the criminal courts. The Penal Code has also been criticized because within its definition of domestic violence, it only punishes and address physical domestic violence, to the exclusion of other forms of violence such as psychological violence for instance, in addition, it requires the abuse to be "habitual" (US Department of State, 2016).

In order to implement the Act and help the victims, the Ministry of Women's Affairs promoted the national 24-hour telephone hotline for domestic abuse victims. The ministry, the Attorney General's Office, and various NGOs also offers health and psychological assistance, including shelter, to victims. In 2015, the Asunción municipal authorities opened the first temporary shelter for women victims of domestic violence, which has capacity for 50 women and their children (Decree N° 51/40).

The ministry also coordinated victim assistance efforts, public outreach campaigns and training with the National Police and healthcare units (Decree No. 51/40). The ministry also provides victims assistance courses for police, healthcare workers, and prosecutors (US Department of State, 2016). A regional protocol for gender-sensitive investigations into intra-family offences involving violence against women was also implemented (Law 5777, Art 16).

The Supreme Court of Justice has opened an out-of-hours office that receives complaints relating to domestic violence. Once entered in the system, complaints are immediately referred to the duty magistrate's court, which rotates on a weekly basis according to a schedule established by the Supreme Court of Justice. (CEDAW, 2016)

The National Police has 16 specialized units to attend victims of domestic violence and 118 officers are assigned to these stations (US Department of State, 2016). Moreover, in order to coordinate efforts between agencies, the Inter-Agency Committee to Combat Violence against Women, Children and Adolescents provides quality care and personalized follow-up of cases (Ministry of the Interior/National Police/Secretariat for Women/Secretariat for Children and Adolescents/Ministry of Public Health and Social Welfare). (CEDAW, 2010)

According to NGOs and the Ministry of Women's Affairs, domestic violence is widespread in the society, and thousands of women received treatment for injuries sustained in domestic altercations. But despite increased reports of domestic violence, individuals often withdrew complaints soon after filing due to spousal reconciliation or family pressure. In some instances, the courts mediated domestic violence cases (US Department of State, 2016). There is also a stigma attached to domestic violence in the Paraguayan society. Consequently, domestic violence was completely taboo for years in the public sphere, mainly due to the idea that domestic violence is an issue that has to be dealt with in the private sphere (FAO, 2008).

c) Rape

Art 128 of the Criminal Code criminalizes rape and provides penalties of up to 10 years in prison for rape or sexual assault. If the victim is a minor, the sentence ranges from a minimum of three years to 15 years in prison. The law also provides for increased penalties for aggravated forms of rape (for instance, in case of disability of the victim) (Criminal Code, Art 130). The legal definition of rape doesn't specifically mention marital rape, however, there is no specific provision impeding wives to file complaints in cases of marital rape.

The Victim Support Centre was created to provide assistance during criminal proceedings, including public oral proceedings. The Public Prosecution Service has forensic experts who carry out medical examinations necessary for the investigation. It has also a Complaints Bureau so that victims of sexual abuse, sexual coercion and domestic violence can undergo medical examinations and lodge complaints in one and the same place. (Law 5777, Art 22)

In addition, several campaigns have been conducted to continue the work of deconstructing stereotypes which promote violence against women. Along these lines, awareness-raising campaigns against sexual violence have included a play entitled "Autopsy", highlighting the negative implications of gender violence for society. Despite those initiatives, according to the Attorney General's office, rape continued to be a significant and pervasive problem. The government generally prosecuted rape allegations and sometimes obtained convictions; however, it is believed many rapes went unreported due to fear of stigma or retribution. (US Department of State, 2016).

d) Sexual harassment

Art 133 of the Criminal Code prohibits sexual harassment and stipulates a penalty of two years in prison or a fine. Sexual harassment is defined as a situation where "one uses his authority or influence in order to obtain sexual favours".

The definition contained in Art 133 of the Criminal Code is considered as too narrow by the CEDAW committee, mainly because it does not cover all the possible forms that sexual harassment can take and only addresses harassment in a hierarchical setting (CEDAW, 2016).

Evidence shows that sexual harassment remained a widespread problem for many women, especially in workplace environments. Prosecutors found sexual harassment and abuse claims difficult to prove because of victims' fear of workplace retaliation and societal pressures against victims. Many dropped their complaints or were unwilling to continue cooperating with prosecutors (US Department of State,

2016). In order to address this issue, a hotline was established to enable individuals to report cases of sexual harassment anonymously (CEDAW, 2011).

Furthermore, with a view to raising awareness of women's rights in the public service, a communication campaign called "Combating sexual harassment in the civil service" (2011) was carried out. This campaign was accompanied by five handbooks aimed at raising awareness of civil servants' rights and obligations (CEDAW, 2016).

e) Female genital mutilation

There is no evidence that female genital mutilation is widely practiced in Paraguay.

f) Abortion

Pursuant to article 349 of the Criminal Code, abortion is prohibited and women and girls who undergo an abortion as well as anyone carrying out the procedure face imprisonment. Sentences range from two to eight years (Criminal Code, Art 349). The only exception is when the pregnancy has life-threatening complications for the woman or girl (Decree Nº 2848, Art 6,). In that particular case, abortion is permitted but has to be declared within 24 hours by the medical practitioner performing it to the Ministry of Hygiene along with the reasons why it had to be performed.

The CEDAW Committee has expressed concerns that women and girls do not seek medical assistance for post-abortion care after an unsafe, clandestine abortion (CEDAW, 2016). This is mostly due to concerns about lack of confidentiality and respect for their right to privacy, including fear of being reported to law enforcement and subsequent prosecution for undergoing an illegal abortion (Amnesty International, 2015). In order to address this issue, in 2012, through decision No. 146 of the Ministry of Public Health and Social Welfare, a post abortion care program was implemented with full confidentiality and medical secrecy for women who have had an abortion, with the involvement of health workers bound by the obligation of confidentiality (CEDAW, 2016).

However, the maternal mortality rate remained high, with backstreet and unsafe abortions responsible for the majority of such deaths, particularly amongst the rural population. The CEDAW Committee has urged the state to find a solution in order to implement effective measures to deal with the high maternal mortality rate, to prevent women from having to resort to unsafe abortions and to protect them from the negative effects on their health. (CEDAW, 2011)

3. Restricted Access to productive and financial resources

a) Secure access to land and assets

The law provides for equal rights to married and unmarried women over the ownership, use, decision-making power, and use as collateral over land and non-land assets (Law Nº 1/92 on the partial reform of the Civil Code, Art 1 and 40). It also allows for both spouses to administer their personal assets and property and does not discriminate against women. The default marital regime is partial community of property and both partners must agree in the administration of marital property. Indeed, the law does not permit execution of contracts with third parties by either spouse without the

acknowledgement and authorized signature of both spouses. Accordingly, any act or private instrument executed by the husband that excludes the wife is deemed null and void.

There are several measures in place to protect women's rights to property, which are especially directed towards rural women. The 1992 Constitution ensures women's participation in reform plans on the basis of equality with men, and support for rural women, particularly those heads of households. In addition, the Ministry of Social Action promotes women's participation and empowerment through the organization of women producers' committees (CEDAW, 2016). However, gender stereotypes continue to limit women's access to agricultural extension and land titles. Indeed, the continued prevalence of a gender bias exhibited in agricultural extension workers' technical assistance, which reinforces stereotypes of farmers as men only and results in missed opportunities for women to access the assistance and increase farm productivity (USAID, 2011).

The Institute of Rural and Land Development (INDERT) has also computerized the register of land acquisition and holding by women and men through special forms, which provide for account to be taken of de facto unions; and in case of doubt, ownership is awarded to the woman. In addition to that, a course had been offered for civil servants working in the area of land rights to explain gender-related land issues (CEDAW, 2011).

b) Secure access to formal financial resources

Married and unmarried women have equal rights as men to open a bank account at a formal institution. They similarly have equal rights as men to obtain credit.

With regard to loans, an institutional policy for gender-sensitive financial inclusion has been developed in cooperation with the Agricultural Loans Facility. The policy increases rural women's access to credit, offering financial products adapted to local needs (CEDAW, 2016). However, there is an absence of sex-disaggregated data and analysis on how men and women use micro-credit, which limits the effective design and delivery of lending products to meet the needs of small producers throughout Paraguay. In addition, it was reported that gender stereotypes continue to limit women's access to credit (USAID, 2011).

c) Workplace rights

Paraguay has ratified ILO Conventions 100, 111, 156, but not 183.

The law mandates non-discrimination on the basis of sex in employment (Labour Code, Art 9), but does not give specific details on the area covered. The law mandates equal remuneration for work of equal value (Labour Code, Art 330). Women can work the same night hours as men and they do not need permission from their husband or legal guardian to either choose a profession or register a business.

In 2015, the adoption of Act No. 5508/15 on the promotion and protection of motherhood and support for breastfeeding has marked the advancement of women workplace's rights in Paraguay. In addition to increasing maternity leave from 12 to 18 weeks in the public and private sectors, it provides for a two-week paternity leave (instead of 2 days before the reform) (Law N°5508, Art 11). Moreover, it promotes responsible parenthood, and prohibits dismissing a worker who has announced she is

pregnant or who is exercising her right to time off for breastfeeding, characterizing any such notice and dismissal as null and void (Labour Code, Art 133). Under the Act, maternity leave is extended to 24 weeks if the child is born prematurely or weighs less than 1 kg, and, in the event of a multiple birth, increases by one month for each child, beginning with the second infant (Law N°5508, Art 11).

In addition, Law 496/95 establishes special protections with respect to maternity (article 128); Articles 129 to 135 provide for special rest periods while breastfeeding and day-care facilities for children under two years of age in companies with more than 50 employees (CEDAW, 2016).

In 2012, in order to prevent and sanction cases of harassment and violence within the workplace, the Ministry of Labour adopted Resolution N°472. This resolution establishes a specific procedure to be followed by companies to sanction harassers (workers and employers alike). The sanctions include the termination of employment as well as a fine up to 30 daily minimum wages (Resolution N° 472 of 2012).

Women continue to face difficulties arising from the sexual division of labour and insufficient infrastructure, in both the public and private sectors, to support their economic activity (UN Women, n.d.). Moreover, the society is pretty conservative when it comes to women's right to work (ILO-Gallup, 2017).

4. Restricted Civil liberties

a) Citizenship rights

Married and unmarried women have the same rights as men to acquire, change, retain their nationality, as well as confer their nationality to their children. Married women also have equal rights as married men to confer nationality to their spouse (Constitution, Arts 46-48).

Married and unmarried women have equal rights as men to register the birth of their children (Civil Code, Art 55). However, many members of Paraguay's indigenous population have no birth certificate or identity papers. The registration authorities face a major challenge in recording the indigenous population groups in remote areas and in issuing birth certificates and identity papers systematically (GIZ, 2013). Poverty is the most common reason why children are not registered as people in rural areas often do not have easy access to the registry offices. For parents in rural areas, registering a child often means a long journey to the next town - something many families do not have time or money for (GIZ, 2013).

Married and unmarried women have equal rights as men to apply for identity cards and passports (Identity Card procedures; Passport application procedures). The law does not discriminate against women with respect to the passports and other travel documents of minor children and both unmarried and married women have the same rights as men to travel outside the country.

b) Voting

Women received the right to vote and stand for election in 1965 (Electoral Code, Art 1) and there are no reports of traditional practices restricting this right.

c) Political voice

Women have the same rights as men to hold public and political office in the legislature, executive and judiciary.

Paraguay has also adopted various provisions in order to improve gender balance in politics. The electoral code requires that at least 20% of each party's candidates in internal party primaries be women (Electoral Code, Art 32). However, there are no legislated quotas for women at the national and sub-national levels.

Several public campaigns took place to boost women's participation in elected office. For instance, "We are one half, we want parity" and "More women, better democracy" campaigns were run in the context of the 2015 municipal elections and, in particular, the 2018 general elections (CEDAW, 2016). However, major stereotypes included those which painted women as "sensitive" and thus unfit for political life or that "women in politics did not look feminine" still hinder women's participation in the political sphere (UNHRC, 2015).

d) Access to justice

Married and unmarried women have equal capacity to men to sue and to be sued. Married and unmarried women's testimony also carries the same evidentiary weight as a man's in civil, criminal, family court, and tribunals (no restrictions found).

There is no specific body tasked with gender equality monitoring. However, the ministry of justice website features a justice and gender monitoring centre showing the situation of women in the administration of justice: positions assigned to women, women's participation in public affairs, violence against women based on gender imbalances, women's participation in the economy and access to basic services, the situation of persons deprived of liberty, studies, and user satisfaction reports (CEDAW, 2016).

The Women's Secretariat and Judiciary requires sex-disaggregated data collection (CEDAW, 2016). The Women's Secretariat collects sex-disaggregated data on who is receiving technical assistance (microcredit, women's organizations, agricultural technical assistance, etc.) in order to identify gaps and better target resources. The Judiciary also collects sex-disaggregated data but there are important gaps in information on women's and men's access to justice, as it does not systematically collect sex-disaggregated information according to type of complaint (i.e.: domestic violence) (USAID, 2015).

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