

PLURINATIONAL STATE OF BOLIVIA

1. Discriminatory family code

The statutory minimum **age for marriage** is 14 for women and 16 for men.¹ Traditions and customs in the large rural and indigenous communities – which constitute about 62% of the population² – contribute to the low average marriage age.

In its report to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 2008, the government reported that changes to the minimum age requirements were underway; however, no such changes had been formalised.³

The most recent Demographic and Health Survey (DHS) (in 2008) found that 14.7% of women between the ages of 15 and 19 reported that they were married, in union, divorced, separated, or widowed.⁴ This represents an increase over figures reported in a 2004 United Nations report citing data from 1998, which estimated that 12% of girls between 15 and 19 years of age were married, divorced or widowed; most of the increase involved young women who report being in a conjugal relationship, but not officially married.⁵ Further, according to DHS data analysed by the UNFPA, there were decreases in the percentage of 20-24 year old women who were married or in union by age 18 between the years 2003 and 2008, in four out of nine of the country's departments.⁶

The Political Constitution of the State gives women and men equal **decision-making authority** over children both in marriage and after divorce. However, according to the most recent report to CEDAW, in practice, it is generally “the woman who is responsible for the care of the children, although no figures are available to support this information.”⁷

The law also provides that women can be head of the household, however, the division of labour in the home is still marked by gender stereotypes. Women generally make decisions about household chores on their own, but it is estimated that, in one out of five cases, men make lone decisions about major

¹ Bolivia Family Code, Articles 44 & 53

² Minority Rights Group International (n.d.)

³ CEDAW (2008)

⁴ Ministerio de Salud y Deportes (MSD), Programa Reforma de Salud (PRS), and Macro International (2009)

⁵ United Nations (2004)

⁶ UNFPA (2012)

⁷ CEDAW (2006)

household purchases.⁸ There is also wide heterogeneity in household patterns, which vary according to indigenous group, with more equitable relationships in some situations and less equitable in others.⁹

The Civil Code (Articles 1094-1105) provides for equal **inheritance** rights for women and men; widows and daughters have equal rights to widowers and sons. These rights apply for all types of property. In practice, however, there is a discrepancy between legal inheritance rights and local practices that discriminate against widows.¹⁰

The Division for the Advancement of Women found that “[i]n the mountains, according to leaders in the highlands, widows may not live with a new partner if they wish to stay on the land that belonged to the deceased. Otherwise, they are forced to leave the property they use to maintain their children.”¹¹

Both women and men have the right to initiate **divorce**.¹²

2. Restricted physical integrity

In 2012, the Law on Harassment and Political Violence against Women was passed.¹³ The legislation makes it a crime to: a) pressure, persecute, harass or threaten an elected woman or those exercising public functions and b) practice physical, psychological or sexual aggression. Penalties go from a two to a five year prison sentence for the former and three to eight years for the latter.¹⁴

Domestic violence is criminalised under several pieces of legislation: Family and Domestic Violence Act No. 1674, enacted 15 December 1995, enforced by Supreme Decree 25087, enacted 6 July 1998, under the new Constitution of the Plurinational State of Bolivia (Art 15, II), enacted 2009, and most recently, under the Comprehensive Law to guarantee women a life free from violence in Bolivia, Law 348, enacted 9 March 2013.¹⁵ The new constitution includes this specific language: "all people, particularly women, have the right not to suffer physical, sexual or psychological violence, both in the family and in society."¹⁶

A 2008 Demographic and Health Survey found that 24% of women reported experiencing violence at the hands of their husband/partner in the past year. The survey further found that only 24% of women who experienced domestic violence requested any kind of assistance or help.¹⁷ A report to the Committee Against Torture, written one month after the most recent (2013) legislation, cited a study on the judicial resolution of the cases of violence against women over a period of five years (between 2007-2011), finding that of the 247,369 allegations made by women in a situation of violence during that period, only 51 perpetrators received a full sentence.¹⁸ This report found gender bias to blame for this discrepancy,

⁸ CEDAW (2006), p. 73, citing information from INE et al. (2004)

⁹ FAO (n.d.)

¹⁰ FAO (n.d.)

¹¹ Division for the Advancement of Women (2005)

¹² Law 15-04-1932

¹³ Law on Harassment and Political Violence against Women (Law No. 243), enacted 14 May 2012; UN Women (2012)

¹⁴ UN Women (2012)

¹⁵ CIDEM et al. (2013)

¹⁶ Constitution of the Plurinational State of Bolivia (Art 15, II), enacted 2009

¹⁷ Demographic and Health Survey (2009)

¹⁸ CIDEM, et al. (2013)

arguing that “[j]ustice operators and administrators apply the legal rules with gender biases, discriminating and ignoring constitutional rights of women, and ultimately justifies and protects the aggressors who commit violent acts and the crime of femicide” going on to specifically blame the State, which “has not yet been able to implement policies aimed at the judicial and social de-naturalization and de-normalization of the violence against women.”¹⁹

Laws on domestic violence may be interpreted differently depending on indigenous status. For example, the CEDAW committee found that gaps are noticeable in Law 1674 on Family or Domestic Violence and Law 2033 on the Protection of Victims of Sexual Violence, which promotes reconciliation in the name of family honour and places less emphasis on prosecution.²⁰

Rape is criminalised under the Law on Protection for Victims of Crimes against Sexual Freedom, No. 2033, enacted 29 October 1999 and, more recently, under the Comprehensive Law to guarantee women a life free from violence in Bolivia, Law 348, enacted 9 March 2013.²¹ Spousal rape is included under the definition of rape as of the most recent legislation and carries an additional five years to a typical rape sentence. The typical sentence itself increased from 4-10 to 20-30 years under the new legislation, and the perpetrator can no longer escape prosecution by marrying the victim.²²

Since the most recent legislation was passed in 2013, it is too soon to gauge how it is being implemented in practice. However, according to a recent report to the UN Committee on Torture by several women’s rights non-governmental organisations, there are a “series of obstacles in the implementation of the Comprehensive Law because the courts on family matters refuse to receive the new complaints without waiting for the gradual implementation of the Comprehensive Law, leaving in the legal vacuum to women in a situation of violence.”²³ Indeed, previous shadow reports to CEDAW have indicated that the vast majority of domestic and sexual violence complaints brought to prosecutors never make it to trial or are dismissed;²⁴ a 2007 study commissioned by the Supreme Court of Justice found that gender-based discrimination permeated 100% of cases involving sexual and domestic violence.²⁵

In 2013, WHO/PAHO found that Bolivia was the country with the highest level of violence, indicating that 53% of women claimed to have suffered some type of physical or sexual violence.²⁶ In terms of attitudinal data, however, the tide seems to be turning, due to some high profile instances of violence against women over the past few years, which resulted in the two laws in 2012, and the ambitious Comprehensive VAW law in 2013.²⁷ Nevertheless, mechanisms to oversee the implementation of the 2013 law have been called into question, since funding for “the mandatory educational programmes, sensitivity training, prevention mechanisms, rehabilitation programmes, mass media campaigns, and

¹⁹ CIDEM et al. (2013)

²⁰ UNICEF et al. (2013), p. 45; citing CEDAW, 2008

²¹ UN Women (2012)

²² Robinson (2013)

²³ CIDEM et al. (2013)

²⁴ Coordinadora de la Mujer, Católicas por el Derecho a Decidir, Oficina Jurídica de la Mujer, y Comité Latinoamericano y del Caribe para la Defensa de los Derechos de las Mujeres (CADEM) (2007), p. 14

²⁵ Corte Suprema de Justicia y Tribunal Constitucional Bolivia (2007), p. 9

²⁶ Cited in CIDEM et al. (2013)

²⁷ Robinson (2013); UN Women (2012); UN Human Rights Council (2013)

increased law enforcement” called for under the legislation are not indicated specifically.²⁸

The legislation is directed specifically at women in public positions (and not at women in the workplace more broadly), and the harassment addressed by this law appears to be more wide-ranging than many **sexual harassment** laws, as the type of harassment in Bolivia seems to be of a particularly violent nature. One organisation, reported in the UNCHR, found that “between 2000 and 2011, 283 reports of harassment and political violence against women were received. These ranged from pressure to resign and arbitrary freezing of salaries to physical, psychological and sexual attacks, in some cases leading to death.”²⁹

Sexual harassment education programmes have been proposed under recent (2013) legislation.³⁰

There is no law criminalising **female genital mutilation** in Bolivia, nor is there any indication of its practice.

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In addition to the above-cited laws, another law addressing gender-based violence in Bolivia was passed in 2012: the Comprehensive Law against **Trafficking** in Persons (Law No. 263), enacted 31 July 2012 (UN Human Rights Council, 2013).³¹

Femicide is also a widespread issue in Bolivia. According to the organisation CIDEM, in 2012, of the cases of femicide, 50.59% were marital or intimate femicide (women murdered by their partners or former partners), sexual femicide 23.54% (killed after being raped), 18.82% child femicide (murder of girls, including the murder of babies born female), 4.71% family femicide (woman from a family killed by a relative) and 2.35% by stigmatised occupation – murders of women in prostitution.³²

Violence against lesbian and transgender women has been reported in Bolivia,³³ with nine murders of transgender people reported by the Trans Murder Monitoring project in 2013.³⁴ In 2012, a transgender woman was attacked, tortured and killed by a large mob in the town of El Alto.³⁵ According to a recent report to the Human Rights Committee, no crimes against homosexuals or transgender people in Bolivia have been prosecuted, leading to a culture of impunity and the perpetuation of violence against lesbian, gay, bisexual and transgender people.³⁶

Abortion is permitted in Bolivia only for the following reasons: to save a woman’s life, to preserve a woman’s physical and mental health, and in case of rape or incest (Bolivian Criminal Code, Article 266).³⁷

²⁸ Robinson (2013)

²⁹ UN Human Rights Council (2013), P 9, FN 4

³⁰ Comprehensive Law to guarantee women a life free from violence in Bolivia, Law 348, enacted 9 March 2013

³¹ UN Human Rights Council (2013)

³² Los Tiempos (2013)

³³ Red TREBOL and Heartland Alliance for Human Needs & Human Rights Global Initiative on Sexuality and Human Rights (2013)

³⁴ Transgender Europe (2013)

³⁵ Red TREBOL and Heartland Alliance for Human Needs & Human Rights Global Initiative on Sexuality and Human Rights (2013), p. 3

³⁶ Red TREBOL and Heartland Alliance for Human Needs & Human Rights Global Initiative on Sexuality and Human Rights (2013), p. 3

³⁷ UN DESA (2013)

And even then, “the women, girls and adolescents must seek a court order that would allow them to access a safe service to have an abortion practiced,” in which case it is often held up first in the judicial system, and then by the provider through “conscientious objection.”³⁸ As a result, clandestine abortions are common, and abortion constitutes the third leading cause of maternal mortality in Bolivia. The Bolivian Criminal Code punishes women that consent to abort, with a term of imprisonment of one to three years.³⁹

3. Son bias

The male/female **sex ratio** at birth is 1.05 and for the working age population (15-64 years old) is 0.96.⁴⁰ There is no evidence to suggest that Bolivia is a country of concern in relation to **missing women**.

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In regards to education, according to 2011 data, there is virtually no gender gap in primary education and a slight gender gap, benefiting girls, in secondary education.⁴¹

4. Restricted resources and assets

Concerning **secure access to land**, the 1996 Land Reform Act (*el Acto Nacional para la Reforma Agraria – INRA*) states that land should be allocated, administered, owned and used according to the principles of equality,⁴² and the 2009 Constitution provides for non-discrimination in access, use, and administration without regard to marital status; and the INRA in particular states that there should be proactive efforts to increase women’s land ownership.⁴³ In 2006, a law was enacted to increase the amount of land held by women by allowing them to write their name first on the property title, in cases when they owned land jointly with their spouses or partners.⁴⁴ As a result, according to the most recent data (from 2007), “19% of land distributed was titled in the names of women individually and 34% of the land was titled jointly in the names of wives and husbands.”⁴⁵ However, this legislation has had a positive impact mostly in urban areas; discriminatory practices restrict land inheritance by indigenous women in some rural locations.⁴⁶

Women in Bolivia have the same rights to **access to non-land assets** as men, and can enter into contracts and administer assets on the same legal basis, regardless of marital status.⁴⁷

In practice, however, rural women often lack the identification documents that are needed to issue

³⁸ CIDEM et al. (2013)

³⁹ CIDEM et al. (2013)

⁴⁰ CIA, <https://www.cia.gov/library/publications/the-world-factbook/fields/2018.html> (accessed 23/04/2014)

⁴¹ World Bank Development Indicators Database, <http://databank.worldbank.org/data/views/reports/tableview.aspx> (accessed 23/04/2014)

⁴² Law on the National Institute of Land Reform, law No. 1715, enacted 18 October 1996

⁴³ USAID (2010)

⁴⁴ CEPAL (2009)

⁴⁵ USAID (2010)

⁴⁶ CEDAW (2006), pp. 64-66

⁴⁷ CEDAW 2006, pp. 64-66

titles to property – land and otherwise.⁴⁸

Access to financial services, including bank loans in Bolivia is often more difficult for women than for men, largely because women have limited financial resources. Lack of basic documents, such as birth certificates and identity cards makes it difficult to access credit.⁴⁹ According to World Bank data, in 2011, 25% of women, compared to 31% of men, held accounts at formal banking institutions; however, more women (3.7%) than men (2.6%) had a loan from a private lender in the past year.⁵⁰

Women have access to microfinance in Bolivia. Data from Microfinance Information Exchange (MIX) indicates that, as of 2012, with 15 microfinance institutes reporting, women made up 55.5% of borrowers.⁵¹ The women-specific microfinance institute Pro Mujer operates with over 113 million borrowers alone.⁵² These programmes make it possible for women to obtain some credit, but the sums involved are typically lower than those accessed by men from formal banking institutions.⁵³

5. Restricted civil liberties

There are no laws that restrict women’s **access to public space**.

However, there are discriminatory practices that affect women’s access to public space, especially in the **political realm**. In particular, “women elected at the municipal level suffer from higher rates of politically motivated physical and psychological harassment and violence,”⁵⁴ with Bolivian police receiving “more than 4,000 complaints of harassment from women participating in politics” between 2004-2012 and many incidents thought to have gone unreported.⁵⁵ To address this impediment to women’s rights in the public sphere, the Law on Harassment and Political Violence against Women (Law No. 243) was enacted in May of 2012.

Women do not need male permission to leave the house. Women can choose where they live.

Electoral Law No. 026, 2010 (Article 11) requires that the number of candidates in the lists for elections to both the upper and lower houses to be gender equitable (50/50). At the sub-national level, the same law requires the number of candidates in the lists for the regional and municipal elections be gender equitable (50/50).⁵⁶ In 2014, women occupied 25.4% of seats in the Parliamentary.⁵⁷

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The 2013 Comprehensive Law sanctions “**media violence**,” including sexist language. However, “the law states that it will regulate the media, but does not specify how, which could lead to protests of

⁴⁸ FAO (n.d.)

⁴⁹ JICA (2006)

⁵⁰ World Bank (2013)

⁵¹ Microfinance Information Exchange (2013a)

⁵² Microfinance Information Exchange (2013b)

⁵³ JICA (2006); CEDAW (2006)

⁵⁴ UDAPE and CIMDM (2008)

⁵⁵ UN Women (2012)

⁵⁶ The Quota Project (2013)

⁵⁷ OECD (2014), *Gender, Institutions and Development Database*, <http://stats.oecd.org>

censorship. It also requires the media to adopt a self-regulated ethics code regarding portrayals of women, but does not specify its content or mechanisms for enforcement.”⁵⁸

Regarding **workplace rights**, the Comprehensive Law to guarantee women a life free from violence in Bolivia includes provisions to protect women from discrimination in employment.

There is legislation requiring paid maternity leave.⁵⁹ Leave lasts for a total of 60 days for public and private workers, excepting domestic workers, who receive 90 days, and those employed in the agricultural sectors, who receive none.⁶⁰ Women receive 95% of their earnings for the duration of their leave;⁶¹ benefits are funded by a social insurance programme, and women must have paid contributions to the programme out of their wages for six months to be eligible.⁶² Bolivian law also prohibits pregnant women from dangerous work and from being dismissed from work for up to a year after the birth of their child.⁶³

⁵⁸ Robinson, Jessica (2013)

⁵⁹ General Labour Act §61; ILO (2011)

⁶⁰ Social Security Administration (SSA) (2010), p. 58

⁶¹ Social Security Administration (SSA) (2010), p. 58

⁶² ILO (2011)

⁶³ ILO (2011)

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