Gabon

1. Discriminatory family code

The Constitution in Gabon recognises men and women as equals before the law.¹

Under Article 203 of the Civil Code, the **minimum legal age of marriage** in Gabon is 15 years for women and 18 years for men. Forced marriage is prohibited under the Penal Code, which also provides that an attempt to consummate a forced marriage with a child under 15 is punishable by imprisonment between one to ten years.² However, customary marriage is a widespread practice, with over 50% of the population in a customary marriage unrecognised by law.³ However, according to the United Nations Committee on Torture, the government was considering a bill to address the legal recognition of customary marriages in 2011.⁴

Within the family, the Civil Code provides that husbands are considered the head of the household and have responsibility for **parental authority**.⁵ Unmarried women have the right to be head of household under the Civil Code.⁶ Married women, however, have an obligation to obey their husband, and husbands have the right to decide on domicile. The wife can only challenge this through a court authorisation.⁷ However, under Article 336 of the Civil Code, husbands require the approval of their wives for certain transfers of property.

Although the Civil Code provides for equal **inheritance** rights for male and female surviving spouses,⁸ Gabon’s inheritance laws are discriminatory towards widows in practice.⁹ This is because, for the 50% of the country’s population in unofficial customary marriages, legal inheritance rights do not apply.¹⁰ In most cases, widows cannot inherit property from their husbands without written authorisation of the family of the deceased. Moreover, they are deprived of their right to live and work on the land or property if they remarry into a family other than that of their deceased spouse. Therefore, widows are obliged to marry within their deceased husband’s family if they wish to

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² CEDAW (2003), p. 26
⁴ United Nations Committee Against Torture (2012), p. 26
⁵ Civil Code, Article 253; World Bank (2013a)
⁶ Civil Code, Article 495; World Bank (2013a)
⁷ CEDAW (2003), p. 27
⁸ Civil Code, Articles 671, 691; World Bank (2013a)
⁹ CEDAW (2003), p. 28
receive any benefits from their deceased husbands. Under the Civil Code, daughters have the same legal rights to inherit as sons.

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Women are also discriminated against in separation and divorce. Divorce is only permitted in the event of an act of transgression (there is no mutual divorce), and any separation of husband and wife must be declared by the courts. If a woman leaves the marital home she can be penalised for adultery, and she must return to her family without being able to claim land ownership and/or the products of agricultural labour. A man is only penalised in the event of leaving the marital home if he has knowledge that his wife is pregnant.

2. Restricted physical integrity

The Penal Code prohibits domestic violence with penalties ranging from two months to 15 years in prison. Gabon is considering an amendment to the Penal Code that would punish incest. Both the United Nations Committee on the Elimination of Discrimination against Women and the United Nations Working Group on the Universal Period Review have raised concerns about the lack of specific and comprehensive legislation to prohibit and punish domestic violence in Gabon.

Although there is some legislative protection in place in the Penal Code, violence against women remains underreported. The government reports that although there is no law providing married men the “right to punish” their wives, women are generally reluctant to report violence that has been inflicted by their husbands. Further, the government states that sexual violence remains a highly sensitive topic in the community preventing women from coming forward. According to the US Department of State, police in Gabon rarely intervene in incidents of domestic violence and only limited medical and legal assistance is available for victims of rape.

According to the latest Demographic and Health Survey (DHS) conducted in Gabon, 54% of women had experienced physical and/or sexual violence by an intimate partner in their lifetime. 21% of women surveyed had been sexually abused in their lifetime, and only 43% of women ages 15-49 who had been physically or sexually abused sought help.

Rape is a criminal offence and carries a penalty of five to ten years’ imprisonment. The law does not address spousal rape.

There is no law prohibiting sexual harassment, however there is currently a proposed amendment to the Penal Code that would punish sexual harassment in the workplace.

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11 CEDAW (2003), p. 28
12 Civil Code, Article 687; World Bank (2013a)
13 Adultery is punishable under the Penal Code, articles 267-271 and 274; CEDAW (2003), p. 28
14 CEDAW (2003), p. 22
15 CEDAW (2003), pp. 27-28
16 US Department of State (2012), p. 15
18 CEDAW (2005a), para. 24; United Nations General Assembly (2008), pp. 8, 13
19 CEDAW (2003), p. 8
20 CEDAW (2005b), para. 57
21 US Department of State (2012), p. 15
23 Measure DHS (2013), p. 287
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Having control over the timing and spacing of children is an important aspect of women’s physical integrity. In Gabon, abortion is treated as a criminal act. It is allowed only to save the woman’s life.26

The Penal Code states that couples must stipulate at the time of marriage whether or not they will be monogamous, though men are able to change their minds later in the relationship and become polygamous – this option is available to men only.27

3. Son bias

The male-to-female sex ratio at birth in 2013 is 1.03 and for the working age population (15-64 years old) is 1.0.28

There is evidence to suggest that Gabon is a country of low concern in relation to missing women due to elevated child sex ratios.

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Education enrolment rates for boys and girls are equal at both primary and secondary school levels.29

4. Restricted resources and assets

Land laws in Gabon do not distinguish between men and women with respect to access to land for building purposes, but in the event they are married, the land itself is always considered the property of husbands.30 As such, married women are unable to own land independently.31 Unmarried women legally have the same right to property as men.32 However, land laws in Gabon derive directly from colonial laws, and there has been little change since independence in 1960.33 As such, in practice, rights to land are not strong for men or women, and according to the non-governmental organisation FERN, there is a “sustained legal failure to accord customary land interests more than to acknowledgement as the right to use land (i.e. not to own it as real property).”34

Women’s access to property other than land is subject to a number of restrictions, particularly for married women. Single women can independently hold and administer assets (including property).35 For married women, administration of assets is governed by the regime under which they marry. For example, under the “separation of assets” regime, each spouse remains responsible for his or her own assets. By contrast, under the “joint estate” regime, husbands are the sole administrators of property. This system, which is socially accepted and practised widely, grants women virtually no property rights.36 Moreover, in the civil code, women and men in free union have no legal rights to

26 UN DESA (2013)
27 UN Economic Commission for Africa (n.d.)
29 UNDP Gabon
30 CEDAW (2003), p. 22
31 Civil Code, articles 335, 336, and 368, World Bank (2013a); CEDAW (2003), p. 28
32 Constitution, Article 1, para. 10; World Bank (2013a)
33 Willy (2012)
34 Willy (2012), p. 112
35 CEDAW (2003), pp. 28-29
36 CEDAW (2003), pp. 28-29
each other’s property: so for women in these circumstances, separation would mean being deprived of assets.

In terms of financial services, Gabon gives all persons – male or female – equal legal right to access bank loans. Nevertheless, certain discriminatory practices persist in preventing women from equally accessing credit. Some banks require wives to obtain permission from their husbands before opening an account, and the law itself requires that husbands be notified. Moreover, women are often excluded from the classic banking services because of their low incomes, a practice that effectively denies their legal right to access loans. According to the latest data from the World Bank, 17.2% of women had a bank account at a financial institution in 2011, though only 1.3% of women had a loan from a financial institution; this was compared to 20.8% and 3.4% of men respectively.

5. Restricted civil liberties

Married women in Gabon face restrictions in terms of freedom of movement as the law provides their husbands the right to choose the family residence and wives are obliged to accept their choice. In addition, the National Office for Documentation and Immigration requires that a married woman wishing to travel outside the country provide proof of the husband’s permission, although the US Department of State’s 2012 Human Rights Report indicated that this provision was rarely enforced in practice.

Although there are no known legislated quotas to promote women’s political participation, according to the government’s latest report to the United Nations Committee on the Elimination of Discrimination against Women, Act No. 24/96, enacted in June of 1996 calls for no distinction between men and women regarding participation in public life, and Act No. 7/96 calls for no distinction between men and women regarding participation in political elections. The US Department of State reports that women participate freely in the political process and that voting and political activism by women is common.

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Under the constitution and Labour Code, women in Gabon have the same right as men to engage in paid work. However night work and mining work is prohibited for women. Women also have a right to paid maternity leave of 14 weeks to be paid by the National Social Security Fund at the level of wages at the time of taking leave.

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37 Civil Code, article 262 grants married women the right to open a bank account, World Bank (2013a); CEDAW (2003), p. 20
38 Civil Code, article 257; CEDAW (2003), p. 25
39 CEDAW (2003), p. 23
40 World Bank (2013b)
41 Civil Code articles 114, 254; CEDAW (2003), p. 27
42 CEDAW (2003), p. 25
44 CEDAW (2003), p. 3.
45 US Department of State (2012)
46 Constitution, article 1, para. 7; Labour Code, Act No. 3/94, articles 1, 9; CEDAW (2003), p. 5
47 Labour Code, articles 159, 167; CEDAW (2003), p. 17
48 Labour Code, Sections 171, 173; ILO (2011)
Same-sex relationships are legal in Gabon and, in 2008, the country was one of 85 signatories to the United Nations’ Joint Statement on Sexual Orientation, Gender Identity, and Human Rights.\(^\text{69}\)

\(^{69}\) http://www.ilga-europe.org/home/issues/ilga_europe_s_global_work/united_nations/ilga_europe_and_joint_statements/joint_statement_on_sexual_orientation_gender_identity_and_human_rights_at_united_nations_2008 (accessed 23 October 2013)
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