GHANA

1. Discriminatory family code

According to the government’s latest report to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) Committee, there are three forms of marriage in Ghana, two of which - Muslim and Christian marriages - are consolidated under the Marriages Act, 1884-1985, CAP 127. The final form, customary marriage, continues to be governed by customary law, though some sections of the Matrimonial Clauses Act of 1971 are applicable to these marriages as well.¹

The effects of marriage under customary law can be observed when looking at data on child marriage in Ghana. Although the Children’s Act of 1998 restricts early marriage and sets the minimum legal age of marriage at 18 years for both women and men,² customary practices in Ghana still lead to child betrothals and child marriages: a 2008 United Nations report estimated that 8.4% of girls between 15 and 19 years of age (a group protected under the 1998 Children’s Act) were married, divorced or widowed.³ A 2006 Multiple Indicator Cluster Survey found that 25.9% of women aged 15-49 were married before their 18th birthday. The most recent Demographic and Health Survey (2008) found 2.6% of married women 15-19 years of age were married before their 15th birthday.⁴

The Children’s Act of 1998 grants parental authority to both parents, and states that both are responsible for a child’s health, wellbeing, and education.⁵ However, under patrilineal systems of customary law, children are deemed to belong to the father’s extended family, meaning that in most cases, if they want it, fathers gain custody of non-infant children in the event of separation or divorce.⁶ Both women and men have the right to initiate divorce.⁷ In addition, according to the 2005 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) report, on divorce women typically lose possession of the family home,

¹ Committee on the Elimination of Discrimination against Women (CEDAW) (2012), p. 41
² Act 560, Section 14(2) in CEDAW (2005), p.68
⁴ Ghana Statistical Service (GSS) (2006), Table CP. 5; Human Rights Council (HRC) (2008), p. 10; Ghana Statistical Service (GSS) (2009), Table 6.3
⁵ CEDAW (2005) p.72
⁶ CEDAW (2005) pp. 68-70
⁷ Judicial Training Institute (n.d.), Section 1.1 of the Matrimonial Causes Act No. 367 (1971)
meaning they are not in a position to maintain their children, even if the father agrees that they should stay with the mother.\(^8\)

In terms of \textit{inheritance} rights, under the Intestate Succession Law of 1985, female and male heirs of a man who dies interstate have equal rights to inherit property, and the right of widows to remain in their family home is protected.\(^9\) However, this protection only lasts for six months after the husband’s death, and is often interpreted as permitting the eviction of a deceased man’s widow and children after the six month ban on this behavior has elapsed.\(^10\)

\textit{More}

The law does not address \textit{polygamy} and, thus, has no mechanism to ensure equity in relation to distributing property upon the death of a man with multiple wives.\(^11\)

Further, the government has reported that women’s property rights upon \textit{divorce} or death of a spouse are often left up to the judge.\(^12\) At the time of the Ghana’s last report to CEDAW (2012), two bills addressing women’s rights to property were being considered in Parliament: the Property Rights of Spouses and the Intestate Succession Bill.\(^13\) The latter would improve upon the 1985 law by increasing spouses’ and children’s share of property, while the former would recognize cohabitation – amongst other things – in order to address the current difficulties of women’s inheritance in both polygamous and customary marriages.\(^14\) It is unclear, however, whether either of these bills would be accompanied by public information campaigns and, according to the Food and Agriculture Organization, one of the barriers to women’s inheritance rights is lack of awareness about the current Intestate Succession Law.\(^15\)

2. \textbf{Restricted physical integrity}

Regarding \textit{domestic violence} in the legal framework, in 2005 Ghana reorganized the Women and Juvenile Unit into the Domestic Violence Victims Support Unit (DoVVSU), however it lacks sufficient resources to effectively investigate crimes and has little reach in large parts of the rural countryside.\(^16\) The police also lack adequate facilities to offer women seeking protection. Meanwhile, there are problems with the courts failing to prosecute cases within an adequate time frame, so that victims often run out of money or courage before their cases are completed.\(^17\) The US Department of State also reports that doctors often charged fees to

\begin{itemize}
  \item CEDAW (2005) p.72
  \item CEDAW (2005) p.71
  \item HRC (2008) p.20
  \item CEDAW (2012) p. 42
  \item CEDAW (2012) p. 42
  \item CEDAW (2012) p. 42
  \item Food and Agriculture Organisation of the United Nations (FAO) (n.d.)
  \item US Department of State (2013) p. 14
  \item HRC (2008) pp. 22-23
\end{itemize}
complete the medical certificates needed for women to press charges, even though legally, these fees should be waived.\textsuperscript{18}

According to the latest data (2011), the DoVVSU received 374 reports of rape, and reported 177 arrests, 93 prosecutions, and 13 convictions, with 133 cases remaining uninvestigated by the end of 2011.\textsuperscript{19} It is thought that rape is significantly underreported, however.\textsuperscript{20} Regarding spousal rape, although criminalised, according to the report of the Special Rapporteur on violence against women, there is still a widespread belief that wives must submit to their husbands.\textsuperscript{21} The latest DHS provides data confirming that belief: of women who had experienced sexual violence, 30\% had done so at the hands of a current or former boyfriend, 19\% at the hands of a current husband or partner, and a further 14.1\% by a former husband/partner.\textsuperscript{22}

Despite legal protections, domestic violence is common. According to the latest Demographic and Health Survey (2008), nearly 37\% of women had experienced physical violence, 17\% in the previous year.\textsuperscript{23} In the same survey, 20.6\% of women reported experiencing physical violence at the hands of their partner at some point in their lives, with 23\% experiencing violence in the past year by an intimate partner.\textsuperscript{24} Domestic violence is also socially accepted; when presented with a list of five reasons for which a man may be justified in beating his wife, 44\% of women agreed with at least one reason.\textsuperscript{25}

The law criminalizes rape, but not spousal rape.\textsuperscript{26} Rape is a criminal offence under Ghanaian law, and amendments to the Criminal Code in 1998 doubled the mandatory sentence; convicted rapists now face prison sentences of 5 – 25 years.\textsuperscript{27} In May 2007, Ghana adopted the Domestic Violence Act, which provides for a broad and gender-neutral definition of domestic violence, authorizes judges to issue protection orders, and criminalizes acts of intimidation, harassment, physical, psychological, and sexual abuse. Furthermore, the act explicitly states that violence cannot be justified on the basis of consent. This ruling allows the courts to prosecute spousal rape and overturns previous law that stated that women had to submit to their husbands.\textsuperscript{28}

There is no law dealing explicitly with sexual harassment, however some cases have successfully been prosecuted under the criminal code.\textsuperscript{29} The US Department of State human rights report for

\textsuperscript{18} US Department of State (2013) p. 14
\textsuperscript{19} US Department of State (2013 p. 14
\textsuperscript{20} US Department of State (2013)
\textsuperscript{21} HRC (2008) p. 13
\textsuperscript{22} GSS, GHS, and ICF Macro (2009), Table 15.6
\textsuperscript{23} GSS, GHS, and ICF Macro (2009), Table 15.1
\textsuperscript{24} GSS, GHS and ICF Macro (2009) 2008, Table 15.10
\textsuperscript{25} OECD (2014), Gender, Institutions and Development Database, http://stats.oecd.org
\textsuperscript{26} US Department of State (2013)
\textsuperscript{27} US Department of State (2013)
\textsuperscript{28} Ghana Domestic Violence Act, Act 732, enacted 3 May 2007 in HRC (2008) p.13, 21; the repealed previous law is Section 42(g), Criminal Code Act 29 of 1960
\textsuperscript{29} US Department of State (2013) p. 14
2012 reports that women’s rights organisations in Ghana consider sexual harassment to be a serious and widespread problem.\textsuperscript{30}

\textit{More}

There are also specific groups of women who are in particular danger of infringements of their physical integrity, including older women, widows, and women who are accused of witchcraft (who often fall into the former categories). The Special Rapporteur on violence against women, its causes, and consequences found in her visit to Ghana that the accusations were serious, and could lead to physical harm, and even death. Further, she noted that some of the allegations “seem to be deliberately directed at women who are successful and are seen as a threat to the patriarchal order.”\textsuperscript{31} Although there are no statistics on women who have been accused of witchcraft, the US Department of State reported that a 2010 survey of three “witch camps” (safe houses for victims of witchcraft accusations) found that they contained 175 female and 8 male residents. In addition to witchcraft accusations, the practice of “widow inheritance” – where women are sent to live with and/or have sexual relationships with a family member of their deceased husband – has also been observed in some parts of the country.\textsuperscript{32}

Young girls in Ghana are also at risk due to the trokosi system – the practice of placing girls in enforced servitude as atonement for crimes or other violations by their families.\textsuperscript{33} According to the UNFPA, estimates of the number of girls held in this type of ritual slavery vary widely – from 5,000 to 20,000. It is also estimated that 9\% of those held in ritual slavery are under the age of 10.\textsuperscript{34}

Restrictions on women’s reproductive rights also serve to limit women’s physical integrity. Abortion is legal in Ghana where the woman’s mental or physical health is in danger, and in cases of rape and incest, or where the foetus is impaired.\textsuperscript{35} The Special Rapporteur on violence against women, its causes, and consequences found that teen pregnancy contributed to a high dropout rate for girls, since some school districts have policies that suspend pregnant girls and/or they are ridiculed into dropping out.\textsuperscript{36}

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 \textsuperscript{37}

\textsuperscript{30} US Department of State (2013) p. 15 \\
\textsuperscript{31} HRC (2008) pp. 19 -20 \\
\textsuperscript{32} HRC (2008) p. 20 \\
\textsuperscript{33} UNFPA – citation unclear \\
\textsuperscript{34} UNFPA, p. 87. \\
\textsuperscript{35} United Nations (UN) (2011) \\
\textsuperscript{36} HRC (2008) p. 11 \\
There is no evidence to suggest that Ghana is a country of concern in relation to missing women.

4. Restricted resources and assets

The land tenure system is currently governed by customary law. Women’s access to land and to agricultural inputs is relatively poor, although women in matrilineal communities can inherit land from either their female ancestors or fathers. Article 22(2) of the 1992 Constitution provides that the Parliament should “as soon as practicable” enact legislation to regulate the property rights of spouses during and at dissolution of marriage. To date, no such legislation has been put in place, which means that married women’s property rights are unclear and their access to land is often restricted (however, see below). Strong regional disparities are apparent regarding access to land: the percentage of female landholders ranges from 2% in the north to 50% in the Ashanti region, where property is distributed according to a matrilineal system.

Women and men in Ghana have equal legal rights in relation to access to and management of non-land assets, and women have the same rights as men to conclude contracts. However, customary law considers property as a family asset to be administered by the family head, who is usually a man. Further, according to a 2012 report by the Ministry of Women and Children Affairs, there are also differences in women’s access to assets and land based on location in rural or urban settings, noting that rural women in Ghana produce about 70% of food crops, yet they “face constraints in access to credit, land, labor, appropriate technology and structures and process that increase agricultural productivity.”

As noted above, however, at the time of the Ghana’s 2012 report to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) Committee, two bills addressing women’s rights to property were being considered in Parliament: the Property Rights of Spouses and the Intestate Succession Bill. Both bills would improve the 1985 law by recognizing the contributions of non-working spouses/partners, as well as all marriage types – amongst other things – in order to address the current difficulties of property division and inheritance in both polygamous and customary marriages.

Women’s access to financial services, including bank loans is more limited than that of men, although there do not appear to be any legal restrictions on women’s access to credit. Women

38 CEDAW (2005) pp. 59, 65, 71; World Bank, Food and Agriculture Organization of the United Nations (FAO), and International Fund for Agricultural Development (IFAD) (2009), p. 128
39 CEDAW (2005) p.71
40 CEDAW (2005) p.71
42 CEDAW (2005) p.67-68
43 CEDAW (2005) pp. 59, 65
44 Ministry of Women and Children Affairs (2012)
45 CEDAW (2012) p. 42
46 CEDAW (2012) p. 42
are less likely to obtain loans from private banks and more likely to receive credit from family members, traders, NGOs, and the government.\textsuperscript{47} Weak access to land limits their ability to provide collateral and makes it difficult to obtain credit and, according to the FAO, rural women are particularly disadvantaged since many loan offices are located in urban areas.\textsuperscript{48} Several current initiatives aim to provide micro-finance schemes to women, particularly those living in rural areas.\textsuperscript{49} However, according to a 2012 report by the Ministry of Women and Children Affairs, 65% of women who received loans consulted their husbands on the use of the monies from the loan.\textsuperscript{50}

According to the latest data from the World Bank, 27.1% of women had accounts at formal financial institutions in 2011, compared with 31.8% of men. In the same year, similar percentages of women (5.8) and men (5.7) received a loan from a financial institution,\textsuperscript{51} but women made up the vast majority – 75.15% of borrowers from microfinance institutions.\textsuperscript{52}

5. Restricted civil liberties

There are no reports that women in Ghana face any legal restrictions in relation to freedom of movement and access to public space. However, the movement of women belonging to certain marginalized groups is restricted. In addition to the information already provided regarding witch accusations, for example, the US Department of State reports that LGBT individuals face widespread discrimination in society, including police harassment.\textsuperscript{53}

Women’s rights organisations appear to face few restrictions on their activities, and were instrumental in pushing for the Domestic Violence Act.\textsuperscript{54}

Women and men have the same right to vote and to stand for public office in Ghana.\textsuperscript{55} Ghana has taken steps to increase the number of women serving in government as elected representatives as well as in the Civil Service, including adopting an (non-binding) Affirmative Action policy in an attempt to increase the representation of women in key public service and policy-making institutions to 40%, although according to its latest report to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) Committee, only three of 28 governing bodies met those requirements in 2012.\textsuperscript{56} As of 2012, there were no legislated quotas at national or sub-national level.\textsuperscript{57} According to the Economic Commission for Africa, it may be the case that ethnic balancing takes priority over gender balancing in electioneering

\textsuperscript{47} GSS (2008), Table 10.2; FAO (n.d.)
\textsuperscript{48} FAO (n.d.)
\textsuperscript{49} CEDAW (2005) p. 58, 66-67; CEDAW (2012) p. 34
\textsuperscript{50} Ministry of Women and Children Affairs (2012) p. 11-12
\textsuperscript{51} World Bank (2013)
\textsuperscript{52} Microfinance Information Exchange (2013)
\textsuperscript{53} However, homosexuality is not illegal in Ghana; US Department of State (2013) p. 20
\textsuperscript{54} CEDAW (2005) p.72
\textsuperscript{55} CEDAW (2005) p.13
\textsuperscript{56} CEDAW (2012) p. 8
\textsuperscript{57} The Quota Project (2013)
Public opinion on women’s political leadership is mixed. Over 78% of respondents to a 2007 survey reported that they believed men to make better political leaders than women, however, a different survey from the same year found that when given the option to rate men and women equally, that percentage dropped to 42% (with 43% reporting men and women equal.)

More

Under the Labour Act (Section 57), employed women in Ghana are entitled to at least twelve weeks of paid maternity leave. A woman’s benefits are equal to 100% of her compensation, and are financed by her employer. In addition, pregnant and nursing women having legal protections under the Labour Act against certain forms of nighttime, dangerous, unhealthy, or overtime work, and unfair, discriminatory termination of her employment.

---

58 ECA (2009) p. 171
60 Pew Research Center (2007) Question Q.43
61 International Labour Organization (ILO) (2011)
62 ILO (2011)
Sources


http://www.mowacghan.net/UN%20CSW%20GH%20technical%20paper.pdf


UN (2008), World Marriage Data 2008, UN Department of Economic and Social Affairs, Population Division, New York, NY.


World Bank, Food and Agriculture Organization of the United Nations (FAO), and International Fund for Agricultural Development (IFAD) (2009), Gender in Agriculture Sourcebook, The World Bank, Washington, DC.

World Bank (2013) Global Financial Inclusion Database [database]