Equatorial Guinea

1. Discriminatory family code

The legal minimum age for marriage in Equatorial Guinea is 18 years for men and women.\(^1\) However, there are no age restrictions in respect to customary marriages, and early marriage is quite common.\(^2\) In 2004 the government reported that it was considering a draft customary marriage bill,\(^3\) and this law (proposed in 2002) was still being considered at the time of the government’s 2012 report to the United Nations Committee on the Elimination of Discrimination against Women (CEDAW).\(^4\) According to the latest report to CEDAW, a draft personal and family code was under review in Parliament at the time of the report.\(^5\)

In civil or religious marriages, the spouses theoretically have the same rights and responsibilities regarding guardianship. However, customary marriages are more common and parental authority derives largely from customary law, which grants husbands virtually all rights, including as head of household.\(^6\) Child custody following divorce is also governed by customary law. In some communities, any children born to the couple belong to the father’s family until they reach the age of majority, but in the event of a separation, children under the age of seven years stay with the mother.\(^7\)

According to the government’s latest report to CEDAW, this discrimination is a result of the fact that civil cases involving customary marriages fall under the jurisdiction of customary law courts, under chapter I, article 28, and chapter IX, articles 68-71 of Act No. 5/2009.\(^8\) In its report to CEDAW, the government describes the legislation as that which “obliges women to continue to suffer under traditions that restrict their right to equal treatment in marriage issues,” going on to state that the State is aware of this discrimination and “working to end it.”\(^9\)

With respect to inheritance rights, in 2004 CEDAW raised concerns about the lack of legislation stipulating equal inheritance rights for women,\(^10\) and in 2011, the government reported that inheritance rights in customary marriages were also governed by Act No. 5/2009 (and thus

\(^1\) CEDAW (2004a), para 36
\(^2\) CEDAW (2004a), para 36
\(^3\) CEDAW (2004a), para 36
\(^4\) CEDAW (2011), pp. 2-3
\(^5\) CEDAW (2011), p. 14
\(^6\) CEDAW (2011), p. 12
\(^7\) CEDAW (2004a), para 36
\(^8\) CEDAW (2011), p. 32
\(^9\) CEDAW (2011), p. 32
\(^10\) CEDAW (2004a), pp. 191-192
discriminatory). In 2011, these discriminatory practices were still in place, and, as in 2004, the government was still considering legislation to enable women to exercise their inheritance rights, particularly in the context of customary marriages. The Food and Agriculture Organization reports that under customary practices, women become members of the husband’s family upon marriage and thus commonly have no right to inheritance. There is also a customary practice in the Fang ethnic group whereby widows are obliged to marry a relative of their deceased husband (which the government states will be addressed under the new – draft – legislation).

2. Restricted physical integrity

While it appears that domestic violence can be prosecuted under the Criminal Code (under laws prohibiting assault), the Human Rights Council Universal Periodic Review of Equatorial Guinea in 2010 recommended that the government enact specific legislation on domestic violence. The Universal Periodic Review did note, however, that the Criminal Code was in the process of being revised to include gender-based violence as an aggravating factor in assault. Further, in its report to CEDAW in 2011, the government indicated that a comprehensive bill addressing violence against women was being considered by parliament. The US Department of State reports that domestic violence is a problem. In 2004, the government reported that domestic violence resulted in many women being killed. A key challenge is the broadly accepted view that men have the right to “discipline” their wives. The government reports that this type of violence is associated with “love” thus preventing women from making complaints or reports.

According to the US Department of State, rape is illegal in Equatorial Guinea but spousal rape is not specified in the law.

In Equatorial Guinea, under-reporting and ineffective enforcement of the laws that do exist also pose significant hurdles to women’s access to justice following violence. The US Department of State reports that, although rape is (theoretically) punishable by 12 to 20 years imprisonment, women commonly do not report rape due to shame in the family and because police and judiciary are reportedly reluctant to prosecute domestic violence cases. It should be noted that, in 2009, the government passed the Judiciary Act No. 5 that requires family judges to be competent in any matter relating to violence against women.

There is no known law prohibiting sexual harassment in the workplace or otherwise, and no information on whether and to what extent sexual harassment exists in Equatorial Guinea.

12 CEDAW (2012b), p 13
13 FAO (n.d.)
14 CEDAW (2012b), p. 13
15 Human Rights Council (2010)
16 Human Rights Council (2010), p. 11
17 CEDAW (2012b), p. 5
18 US Department of State (2012)
19 CEDAW (2004b), p. 11
20 US Department of State (2012)
21 US Department of State (2012)
22 Human Rights Council (2010), p. 11
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Having control over the timing and spacing of children is an important aspect of women’s physical integrity. In Equatorial Guinea, abortion is treated as a criminal act. It is allowed only for therapeutic reasons to save the woman’s life or preserve her health.\(^{23}\)

**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 0.98.\(^{24}\)

There is no evidence to suggest that Equatorial Guinea is a country of concern in relation to missing women.

**4. Restricted resources and assets**

As noted in the Family Code section, discriminatory inheritance practices that are reinforced through customary law restrict women’s capacity to own land. According to its latest report to CEDAW, the government reports that, under the draft personal and family code, women’s rights in this regard will be upheld, including separate ownership of assets within the marital property regime.\(^{25}\)

Concerning access to property other than land, women theoretically have the legal right to buy and sell property and goods.\(^{26}\) However, because women’s decision-making rights within the household are severely limited due to the aforementioned practices and lack of rights, it is unclear, for example, whether women have control over any money that they might receive from these earnings.

Regarding access to financial services, the government reports that women have equal legal rights in accessing bank loans, and the government states in its 2012 CEDAW meeting that women did not need their husband’s permission to open a bank account.\(^{27}\) In its 2011 report to the Committee on the Elimination of Discrimination against Women, the government also highlighted several programmes which have included specific provisions to promote women’s access to microcredit.\(^{28}\) However, there is no available information on what percentage of women versus men have accounts at financial institutions, nor is it clear how many women are able to borrow from microfinance institutions directly and without their husband’s permission. Data from the African Development Bank indicates that, while no formal discrimination is in place, in practice, women’s access to financial services is limited. Also, women represent two thirds of all the people who earn less than 2 dollars per day.\(^{29}\)

**5. Restricted civil liberties**

In regard to access to public space, there is no longer a legal requirement for women to obtain permission from their husbands if they wish to travel. However, in practice, the government reports that it is generally accepted that both spouses must consent before wives travel “to ensure the

\(^{23}\) UN DESA (2013)


\(^{26}\) CEDAW (2004b), p. 16

\(^{27}\) CEDAW (2012a), p. 5

\(^{28}\) CEDAW (2011), pp. 29, 30

\(^{29}\) African Development Bank (2013)
Women currently do not have the right to decide on the location of the familial home; however, in latest report to CEDAW, the government reports that, spousal agreement on location of the family home is included under the draft personal and family code.\(^\text{31}\)

In terms of \textit{political voice}, although freedom of association is guaranteed in the Constitution of Equatorial Guinea,\(^\text{32}\) according to Human Rights Watch, freedom of assembly and association are severely restricted,\(^\text{33}\) meaning both that women’s individual freedom of movement is still curtailed and also that their ability to participate in the public political and civic realms is limited. In its most recent report to CEDAW, the government states that women make up only a minority of decision-making positions within the country’s political parties, but that they “actively participate in the formation, organisation, and management of political parties and actively support them.”\(^\text{34}\) There are no \textit{quotas} at the national or sub-national level to promote women’s political participation.\(^\text{35}\) The government notes, however, that there has been an increase in the percent of women in the executive branch from 9.6% in the period 2004-2006 to 13% in the period 2007-2009.\(^\text{36}\) Yet, at the local level, the percentage of women mayors decreased from 20% to 8%.\(^\text{37}\) Women were 23.2% of city councillors in the period from 2007-2009.\(^\text{38}\)

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Women in Equatorial Guinea have equal rights to paid \textit{employment}, and discrimination on the basis of sex is prohibited under Section 1 of the Labour Code.\(^\text{39}\) Women also have a right to paid \textit{maternity leave} of 12 weeks, under Section 3 of the Labour Code.\(^\text{40}\) Decree No. 100, amending the regulations of the Social Security Scheme stipulates that maternity leave is to be paid by social security at 75% of the normal salary.\(^\text{41}\)

\textsuperscript{30} CEDAW (2004b), p. 16
\textsuperscript{31} CEDAW (2011), p. 12; CEDAW (2012b), p. 13
\textsuperscript{32} CEDAW (2011), p. 20
\textsuperscript{33} Human Rights Watch (2013)
\textsuperscript{34} CEDAW (2011), p. 20
\textsuperscript{35} CEDAW (2011), p. 18
\textsuperscript{36} CEDAW (2011), p. 18
\textsuperscript{37} CEDAW (2011), p. 19
\textsuperscript{38} CEDAW (2011), p. 19
\textsuperscript{39} ILO (2011)
\textsuperscript{40} ILO (2011)
\textsuperscript{41} ILO (2011)


Sources


