1. Discriminatory family code

The Haitian Civil Code stipulates that the minimum legal age of marriage is 15 years for women and 18 years for men and that marriage is defined as being between only one man and woman.\(^1\)

A small fraction of marriages in Haiti is still arranged or forced, particularly in case of rape or pre-marital pregnancy,\(^2\) and approximately 85% of unions in Haiti take the form of plasaj – or unmarried ‘consensual’ unions.\(^3\)

Haitian law accords equal rights to both spouses in marriage, but according to the government’s 2008 report to the United Nations Committee on the Elimination of Discrimination against Women (CEDAW), by law the husband’s views take precedence in the event of a conflict.\(^4\) If a couple divorces, the decision regarding custody is made with the child’s best interests in mind, but both parents have an obligation to provide financially for the child;\(^5\) it is not clear whether courts tend to favour fathers or mothers in custody cases. However, children born outside of marriage are subject to legal discrimination, a significant problem given the high percentage (up to 85%) of partnerships in Haiti that take the form of unregistered ‘consensual unions’ (known as plasaj) rather than legal marriage.\(^6\) Specifically, an article of the Civil Code denies their right to know their father’s identity, unless he acknowledges them as his children.\(^7\) Married Haitian women do not face any legal discrimination in the matter of inheritance, but women whose unions are not officially recognised are deprived of inheritance rights, even to property acquired jointly – a significant issue given the high number of women living in such relationships (85% of all relationships in Haiti are ‘de facto’ or plasaj).\(^8\) The legal status of relationships also impacts inheritance rules for children, since only ‘legitimate’ children are eligible to inherit under the law. Further, according to tradition, women are generally awarded smaller shares than men.\(^9\)

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\(^1\) Article 133 of the Civil Code; CEDAW, 2008, p. 104  
\(^2\) Article 133 of the Civil Code in CEDAW, 2008, p. 104  
\(^3\) Bouchard, 2009, pp. 135-139  
\(^4\) CEDAW, 2008, p. 105  
\(^5\) CEDAW, 2008, p. 105-106  
\(^6\) Bouchard, 2009, pp. 135-139. Note: this is the Haitian Kreyol spelling – in French it is plaçage  
\(^7\) CEDAW, 2008, p. 106  
\(^8\) CEDAW, 2008, p. 97; Bouchard, 2009; FAO, n.d.  
\(^9\) Gardella, 2006, p. 15
Both women and men have the **right to initiate divorce**.\(^\text{10}\)

### 2. Restricted physical integrity

Although Haiti passed a Decree Modifying Offences of Sexual Aggression and Eliminating Discrimination against Women (*Décret Modifiant le Régime des Agressions Sexuelles et Éliminant en la Matière les Discriminations Contre la Femme*) in 2005, **domestic violence** was not addressed until the 2008 agreement between the Ministry of Women’s Status and Rights (*Ministère à la Condition Féminine et aux Droits de la Femme*, or MCFDF) and the Ministry of Justice and Public Security. Although not a legal decree, and therefore not resulting in a modification of the Penal Code, the agreement expands the definition of gender-based violence, recognising that the following acts justify police intervention: physical, sexual and psychological violence occurring within the family, including battery, murder, marital rape, sexual assault, mutilation\(^\text{11}\) and other traditional practices harmful to women; physical and psychological violence within the community, including rape, sexual assault, sexual harassment and intimidation at work, in educational institutions and elsewhere; pimping, forced prostitution, trafficking of women and girls.\(^\text{12}\)

In practice, women are discriminated against in other ways with regard to crimes committed in the domestic realm. For example, murder committed by a man who discovers his wife and her lover is frequently punished with only two years in prison.\(^\text{13}\)

National statistics on incidents of domestic violence are very limited, in terms of prevalence rates, numbers of complaints and numbers of convictions.

Under the 2005 Decree Modifying Offences of Sexual Aggression and Eliminating Discrimination against Women (*Décret Modifiant le Régime des Agressions Sexuelles et Éliminant en la Matière les Discriminations Contre la Femme*), **rape** is a crime in Haiti and punishable by up to 10 years in prison.\(^\text{14}\)

Marital rape is not currently included under Haitian law, but new revisions to the Penal Code, proposed in February 2013, would criminalise rape within marriage (though it is unclear whether this would include the common-law *plasaj*, the most common form of partnership in Haiti).\(^\text{15}\)

Women, especially those in precarious situations such as those found in internally-displaced camps, are hesitant to come forward in to report sexual abuse for a number of reasons, including discrimination, fear of retaliation or punishment, the government’s inability to effectively respond to complaints or allegations, and fear of abuse or discriminatory treatment at the hands of the police.\(^\text{16}\)

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\(^\text{10}\) Divorce Law of 1974

\(^\text{11}\) Author’s translation from the French, *les mutilations*. It is important to note here that no practices of female genital mutilation have been documented in Haiti

\(^\text{12}\) United Nations, 2009

\(^\text{13}\) FAO, n.d.

\(^\text{14}\) Article 278 of the Penal Code, enacted 6 July 2005; Gardella, 2006, p. 14

\(^\text{15}\) Media Terre, 2013

\(^\text{16}\) KOFAVIV et al., 2012, p. 16,

Although the Haitian Constitution formally protects women against discrimination and the Labour Code provides for equal working conditions for women and men, there are no laws criminalising sexual harassment in Haiti. According to Freedom House, it is a widespread problem.\textsuperscript{17}

There is no evidence to suggest that female genital mutilation is practised in Haiti.\textsuperscript{18}

\textbf{More}

Though gender violence is widespread in Haiti, there are several groups that are particularly affected, including women who have been displaced since the 2010 earthquake, women from lesbian, gay, bisexual and transgender (LGBT) communities, and girls.

Since the January 2010 earthquake, large numbers of Haitians have been internally displaced – many living in tent camps throughout the capital city, Port-au-Prince. At the end of 2012, it was estimated that 357,785 people were still living in camps, down from a peak of 1,536,477 registered in July 2010.\textsuperscript{19} A January 2012 study found that, in 14\% of all households displaced by the quake, at least one member had been sexually assaulted.\textsuperscript{20} In addition to rape and sexual abuse, incidents of ‘survival sex’\textsuperscript{21} – the exchange of sex for survival in lack of other options – are reportedly widespread within the camps.\textsuperscript{22}

According to recent reports by the Haitian National Police’s Co-ordinator for Women’s Affairs, there are now officers trained to receive and process women victims at police stations throughout Port-au-Prince, where many of the displaced were still living in tent cities as of 2013.\textsuperscript{23} New revisions to the Penal Code, proposed in February 2013, would further assist victims by providing state-funded legal aid to those who are unable to afford counsel.\textsuperscript{24}

Individuals from LGBT communities are also extremely vulnerable in situations of displacement, where they are reported to be victims of sexual exploitation for food and other items needed for survival.\textsuperscript{25} Outside of the camps, lesbians have been the targets of ‘corrective rape’ as well as other forms of violence.\textsuperscript{26} New revisions to the Penal Code, proposed in February 2013, would prohibit discrimination based on sexual orientation.\textsuperscript{27}

The trafficking of young children is common in Haiti. The children, who are known as restaveks, are generally from rural areas and sent to live with relatives or friends in the cities who pay for their education in exchange for domestic work. According to UNICEF, however, the reality is more akin to trafficking, with children often ‘forced to work as domestic servants, labouring around the clock without

\textsuperscript{17} Freedom House, 2013
\textsuperscript{19} International Organization for Migration, 2012
\textsuperscript{20} Herz, 2013
\textsuperscript{21} This practice, known as travay – or work – by Haitian women, has been long-documented in Haiti, not just in post-earthquake times, but also in other times of political upheaval. Prior to the earthquake, this was in the period from 2004-2006. Maternowska, 2006
\textsuperscript{22} KOFAVIV et al., 2012, p. 2
\textsuperscript{23} Herz, 2013
\textsuperscript{24} Media Terre, 2013
\textsuperscript{25} KOFAVIV et al., 2012, p. 14
\textsuperscript{26} MADRE, 2013
\textsuperscript{27} Media Terre, 2013
pay, frequently subjected to abuse by their caretakers. As of 2012, there were an estimated 225,000 restaveks in Haiti.

Although abortion is illegal in Haiti, general principles under criminal legislation allow for abortions to be performed in cases when the woman’s life is in danger. New revisions to the Penal Code, proposed in February 2013, would legalise abortion in cases where the woman’s life is in danger, or in cases of rape or incest.

3. Son bias

The male-to-female sex ratio at birth in 2013 is 1.01 and for the working age population (15-64 years old) is 0.98. There is no evidence to suggest that Haiti is a country of concern in relation to missing women.

More

UNICEF provides data on education from 2008 to 2012. In primary education, there is virtually no gender gap. While enrolment is low in general, more girls participate in secondary education than boys.

4. Restricted resources and assets

There are no legal restrictions on women’s right to own and manage land. However, in practice, it is very difficult for women to own land, given that few have the money to buy it and that so many live in unregistered consensual unions. In the event of separation or her partner’s death, a woman has no legal right to claim ownership of property accumulated jointly in an unregistered consensual union.

The 2008 CEDAW report notes that just over 10% of women in rural areas work on their own farms. Many female agricultural workers are not paid as their labour is seen as ‘auxiliary’ labour supplementing that performed by the male head of the family.

Women have the legal right of access to property other than land, which usually includes assets such as the family home and cattle. These assets may be solely or jointly owned by a married couple. Women often purchase cattle alone but generally acquire other property by combining resources with another person. It is rare for women to own secondary properties or vehicles.

Regarding access to financial services, there do not appear to be any legal restrictions on access to credit and, according to the World Bank, a higher percent of women (10%) than men (6.6%) have

28 UNICEF, 2012
29 UN DESA, 2013
30 Media Terre, 2013
33 CEDAW, 2008, p. 98
34 CEDAW, 2008, pp. 97-98
35 CEDAW, 2008, p. 80
36 CEDAW, 2008, p. 80
37 Gardella, 2006, pp. 15-16
received a loan from a financial institution in the past year.\textsuperscript{38} In practice, however, the vast majority of Haitian women do have limited access to bank loans, in part because they lack information about lending programmes, or because they do not have the collateral needed to secure credit.\textsuperscript{39}

Women make up the majority of microfinance lenders, 70\% in 2012.\textsuperscript{40} However, as the 2008 report to CEDAW notes, ‘the terms for the loans, which carry high interest rates, do not facilitate the social advancement of women nor do they substantially improve their living conditions’.\textsuperscript{41}

5. Restricted civil liberties

The major barrier to women’s access to public space comes in the form of threat of violence, as indicated in the physical integrity section. Following the 2010 earthquake, there have been reports of both increased sexual and physical violence against women as well as vigilante-style justice and other forms of exploitation of women in public spaces, including an increase of violence against women because of their sexual orientation or gender identity.\textsuperscript{42}

As concerns political voice, Haiti has an active women’s movement working on a variety of issues, including lobbying to revise discriminatory legislation, to promote women’s participation in decision-making bodies, access to basic services and reproductive health, and to prevent gender-based violence.\textsuperscript{43}

Despite its active women’s movement, women are the main victims of a particular type of political violence in Haiti. The practice of zenglendos, which involves men breaking into a house to rape the female occupants, is frequently used to exert political pressure.\textsuperscript{44} The 2008 CEDAW report also notes that, in some urban areas, armed gangs use rape as a systematic instrument of intimidation.\textsuperscript{45}

Although there are no legal obstacles for women to vote and stand in elections, women wishing to stand for political office face considerable obstacles, including patriarchal attitudes that politics is men’s business, the practical difficulties of combining a political career with raising children, lack of financial support, and threat of physical and sexual violence.\textsuperscript{46} In 2012, a constitutional amendment was passed, instituting a 30\% quota for women in all elected and appointed positions at the national level.\textsuperscript{47} However, a recent ‘awareness campaign’ for journalists on the legislation has been undertaken with support from Swiss Cooperation.\textsuperscript{48}

\begin{itemize}
\item[38] World Bank, 2013
\item[39] CEDAW, 2008, pp. 94-95, 99
\item[40] CEDAW, 2008, p. 99; Microfinance Information Exchange, 2013
\item[41] CEDAW, 2008, p. 95
\item[42] KOFAVIV et al., 2012; MADRE, 2013
\item[43] CEDAW, 2008, p. 25
\item[44] Gardella, 2006, pp. 24, 31
\item[45] CEDAW, 2008, p. 50
\item[46] CEDAW, 2008, pp. 61-62
\item[47] The Quota Project, 2013
\item[48] IDEA, 2013
\end{itemize}
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Women are heavily discriminated against in the Haitian media. According to the Global, they make up no newspaper reporters, none of the news subjects quoted in newspapers, and only 27% of news reporters and 44% of news presenters.49

Under Haiti’s Labour Code (Article 316), women have the same rights and obligations as men in the workplace and are protected from discriminatory dismissal (Article 50).50

Haiti also offers 12 weeks of maternity leave under its Labour Code, with six weeks of full pay, provided that the woman issues the employer a medical certificate.51 The leave is paid by the Office of Workers’ Compensation Insurance, Maternity and Sickness, but the worker must be insured.52 Employers are also banned from dismissing women from work while they are on maternity leave,53 but given the high numbers of women working in the informal sector, it is likely that few women actually benefit from these provisions.54

Further, women do not appear to have the right to pass citizenship onto their children; rather, children born to a Haitian mother and a foreign father must wait until they reach the age of majority before applying for Haitian citizenship.55

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49 GMMP, 2010, pp. 66, 88, 93
50 ILO, 2011
51 ILO, 2011
52 ILO, 2011
53 CEDAW, 2008, p. 75
54 CEDAW, 2009, p. 7
55 CEDAW, 2008, p. 68
Sources


