MAURITIUS

The government of Mauritius has recently enacted the 2008 Equal Opportunities Act, which prohibits any direct or indirect discrimination in areas such as employment, recruitment, distribution of services and access to education. Like the Employment Rights Act 2008, the Equal Opportunities Act provides provisions against sexual harassment. In addition, Mauritius adopted, in 2008, a National Gender Policy Framework, aimed and addressing discriminatory practices in a wide range of areas, and the government has declared its intention to undertake a review of the 1968 Constitution. Although women in Mauritius fare well in terms of educational attainment, this has not translated into equality in terms of wage equality, income levels or representation in political life.

Also, the National Women Council under the aegis of the Ministry of Gender Equality, Child Development and Family Welfare (MGECDFW) is now engaged in an island-wide campaign on the dissemination of information on gender equality and gender issues. Sensitisation campaigns take place in the network of women centres across the island, including in community centres. Concurrently, the MGECDFW has an ongoing “Men as Partners Programme” and “Working with Boys for Gender Equality” that targets men and youngsters in the different communities to sensitise them on gender equality, challenge patriarchal attitudes and deep rooted stereotypes concerning the roles and responsibilities of women and men in family and society.

In 1995, the Constitution of Mauritius was amended to include gender in Section 16 which guarantees protection from discrimination, defined as “affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, caste, place of origin, political opinions, colour, creed or sex.” It should be noted that the discrimination clause does not, however, apply to personal status law, including adoption, marriage, divorce, burial and devolution of property on death.


1. Discriminatory family code

Under the Constitution (section 16), there is no discrimination on the basis of sex, however an exemption to the prohibition of discrimination (section 16 (4) (c)) is maintained with regard to personal status law, including

---

1 CEDAW (2011a) pp.2-3
2 CEDAW (2010a) p.7
4 Ministry of Gender Equality (n.d.)
5 Section 16, Constitution of Mauritius
6 CEDAW (2011c) p.8; CEDAW (2011d) p.3
8 African Commission on Human and Peoples’ Rights (2013)
In terms of the minimum legal age of marriage, the Civil Code provides that a person in Mauritius can get married at the age of 18 years. However, a person aged 16 years can get married with the consent of their parents, or with the consent of one of the parents exercising parental authority or in the absence of the consent of parents, by the Judge in Chambers if the latter considers that it would be in the interests of the minor to get married.  

Although Sharia law is not practiced in Mauritius and there are no sharia courts, the Civil Status Act (section 26 and section 30) provides for the celebration of religious marriages with civil effect, thus providing the Muslim community the option of availing themselves of personal laws. While the Government has set up a commission to investigate the existing rules governing marriages and their dissolution in accordance with Muslim rights, and their impact on women, a consensus has not be reached, and this topic remains one of open debate. The UN Convention on the Elimination of All forms of Discrimination against Women (CEDAW) Committee has also expressed concern with regard to concile the laws of the Republic of Mauritius with Sharia law. In response to the Committee’s concern, it is reported that the Mauritian Government has set up a Commission to investigate into the appropriateness of the Muslim Personal Law and its impact on women. However, it is noted that a consensus could not be reached among the different schools of thought in the Muslim community in the country.

In terms of early marriage data, the United Nations reports, based on 2000 data, that 10% of girls between 15 and 19 years of age were married, divorced or widowed, compared to 1% of boys in the same age range. The more recent 2011 Housing and Population Census issued by the Ministry of Finance and Economic Development reports that of the age group 15-19 (women), approximately 1% was ever married.

The Mauritian Civil Code provides both spouses with the same rights and obligations in regard to parental authority, including when spouses separate or divorce. However, in practice, gendered stereotypes with respect to family roles prevail, where men continue to perform the main breadwinner role and women fulfil the primary carer role. There are no restrictions on married or unmarried women being “head of the household” or “head of the family” in the same way as a man. In the event of divorce, custody of children under the age of five is automatically granted to the mother (art. 261 of the Civil Code), unless there are exceptional circumstances regarding the child’s health or security.

According to the Civil Code (Art. 731), Mauritian women have equal rights as men in regard to inheritance, as do sons and daughters. Widows and widowers inherit the property of the deceased spouse, whatever the circumstances and the matrimonial regime, even if the deceased did not leave a written will. There are no legal

---

9 CEDAW (2011c) p.8; CEDAW (2011d) p.3
10 Gender Links (2012) p.17
11 CEDAW (2011d) p.3
12 Gender Links (2012) p.17
13 CEDAW (2011a) p.3; CEDAW (2013) p.2; Gender Links (2012) p.4
14 CEDAW (2010), p. 22
15 CEDAW (2011), paras 14-15
16 Housing and Population Census Mauritius (2011) p.94
17 Gender Links (2012) p.17
19 World Bank (2013)
20 Idem, p.18; CEDAW (2011a) p.24
21 World Bank (2013); CEDAW (2011c) p.8
or customary restrictions that favour male heirs over females.\textsuperscript{22} For Muslims in Mauritius, inheritance is also subjected to unofficial religious Islamic law, by which a woman is entitled to half the share of her male counterpart (‘2:1’).\textsuperscript{23}

\textbf{More}

With respect to \textbf{divorce}, the Civil Code provides equal rights for both women and men.\textsuperscript{24} In early 2011, the National Assembly adopted the Divorce and Judicial Separation Bill, which now provides for divorce or judicial separation by mutual consent or acceptance in principal of the breakdown of a marriage (previously limited to “\textit{faute}” or “\textit{rupture de la vie commune}”).\textsuperscript{25} The Act also reduces, from 5 to 3 years, the period of separation required for a divorce, as well as simplifies the process of lodging a petition for divorce.\textsuperscript{26} Legal fees, however, remain high, providing men, who often have greater economic means, with greater ability to dictate their will in divorce proceedings.\textsuperscript{27}

It is, however, reported that the rights of Muslim women with respect to divorce are infringed by Islamic personal laws.\textsuperscript{28} Women are required to attend the Muslim Family Council to ask for a divorce, whereas men can divorce their wives by ‘talaaq’ or repudiation. If the husband does not attend the panel with the Muslim Family Council or if the panel does not consider the woman’s justifications to be valid, the woman is unable to divorce her husband.\textsuperscript{29}

The adolescent fertility rate for women age 15-19 was 29.4 per 1,000 women of that age group in 2012.\textsuperscript{30}

Data on decision-making over earnings and household purchases is not available. However, a study from the United Nations Department of Economic and Social Affairs reports that Mauritian women spend 1:56 minutes in paid work per day (compared to 4:56 for men) and 4:37 minutes per day in unpaid work (compared to 1:13 for men).\textsuperscript{31}

\textbf{2. Restricted physical integrity}

In 1997, the Protection from Domestic Violence Act was introduced which provides for protection orders, occupancy orders and tenancy orders and offers a wide definition of \textbf{domestic violence} to include physical, emotional, sexual violence and even threatened violence.\textsuperscript{32} In 2004, amendments were for the law to cover cases of domestic violence committed by any person living under the same roof, increase the penalty and provide for counselling.\textsuperscript{33} Amendments were again brought to the Act in 2007 in an effort to strengthen enforcement. Amendments made to the Protection from Domestic Violence Act of 1997 in 2007 include increase in penalty; counseling instead of being sentenced; aggrieved spouse and any child of the parties to whom a

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{22} Gender Links (2012) p.18
\item \textsuperscript{23} Kureembokus (2010); Muslims make up approximately 17% of the population
\item \textsuperscript{24} Gender Links (2012) p.16
\item \textsuperscript{25} CEDAW (2011a) p.24
\item \textsuperscript{26} CEDAW (2011a) p.24; Gender Links (2012) p.16
\item \textsuperscript{27} Gender Links (2012) p.16
\item \textsuperscript{28} Gender Links (2010) p.9; Gender Links (2012)
\item \textsuperscript{29} Gender Links (2010) p.25; Gender Links (2012)
\item \textsuperscript{30} Gender Statistics Mauritius (2012) p.3
\item \textsuperscript{31} The World’s Women (2010) p.211
\item \textsuperscript{32} CEDAW (2011a) p.6
\item \textsuperscript{33} Gender Links (2010) p.14
\end{itemize}
\end{footnotesize}
Protection Order has been granted to apply for alimony. Under section 13, persons found guilty of violating a protection order may be fined up to 25,000 rupees (833 USD) or imprisoned for up to two years. Upon being convicted for a second or subsequent time, fines of up to 50,000 rupees and up to two years imprisonment are applicable. The 2007 amendments came into force in late 2011 as part of the National Action Plan to End Gender Based Violence (NAPEGBV) 2012-2015. Women victims of domestic violence are afforded legal aid in accordance with the provisions of the Legal Aid Act, and the Attorney General’s Office offer counselling services. There are also three shelters, but only one is operated under the aegis of a ministerial office and personnel and quality of service is relatively limited. Police are not always effective in enforcing the law or in protecting domestic violence victims who have been granted domestic protection order. Survey data gathered in Mauritius in 2011 suggests that at least one in four women have experienced GBV at some time in their life, while in 2012, 1,760 cases of domestic violence were reported to the Ministry of Gender Equality, Child Development and Family Welfare, of which 89.2% were against women.

In regard to Gender Based Violence (GBV), the NGO Gender Links states in its 2012 report that 24% of Mauritian women had experienced some form of GBV, including violence from their partners and non-partners; and 23% of men have also reported to having perpetrated violence against women in their lifetime. Concurrently, it is reported that 6% of women who have ever worked have experienced some form of sexual harassment in the workplace. According to the same report, there is a discrepancy of figures between official cases reported at the level of Family Support Bureaux under the Ministry of Gender Equality, Child Development and Family Welfare and official statistics. It is estimated that the prevalence of intimate partner violence reported is 15 times higher than that reported to the Family Support Bureaux.

Among its provisions, the Employment Rights Act of 2008 prohibits sexual harassment, punishable by up to two years imprisonment. The latter is defined as “making an unwelcome sexual advance, or an unwelcome request for sexual favour, or engaging in any other unwelcome conduct of a sexual nature towards another person, in circumstances in which a reasonable person would have foreseen that the other person would be humiliated, offended or intimidated”. Women workers are specifically protected against any dismissal for reporting a case of sexual harassment. The Equal Opportunities Act 2008 also contains provisions against sexual harassment. Sexual harassment is reportedly widespread in Mauritius (although specific data on prevalence is not available) and despite legislative efforts implementation of the law has proved difficult.

---

34 Gender Links Mauritius (2009)
35 CEDAW (2011a) p.7; Gender Links (2012) p.56
36 CEDAW (2011c) p.10
37 Gender Links (2012) p.62
38 CEDAW (2011a) p.4
39 CEDAW (2011a) p.10; CEDAW (2011d) p.5
40 US State Department (2012)
41 Gender Links (2012) p.53
42 Gender Statistics Mauritius (2012) p.20
44 CEDAW (2011a) p.2
45 Idem, p.3
46 Idem, p.2
Following the enactment of the Equal Opportunities Act (2008), an Equal Opportunities Commission was established as a corporate body as well as an Equal Opportunities Tribunal as per Section 27(3) of the Equal Opportunities Act (EOA, 2008) to promote equal opportunity, conduct relevant research, circulate appropriate guidelines and undertake sensitization campaigns at different levels to eliminate discrimination. The Commission has published an interim report in 2012 that highlights its strategic plan for implementation of the EOA, the number of cases being handled by the Commission, disaggregated *inter alia*, by the types of discrimination, gendered and ethnic disaggregation.\(^{48}\)

Section 249 of the Criminal Code of Mauritius criminalises the offence of *rape* and perpetrators are liable to pay fines and serve a prison term of no less than 10 years, but there is no specific prohibition of marital rape.\(^{49}\) In 2007, the Government presented a Sexual Offences Bill, which would criminalise marital rape, but as of 2013, the bill had not been passed into law.\(^{50}\) The US Department of State reports that although rape is widespread, victims prefer not to file charges or report incidents due to stigma and fears of retaliation.\(^{51}\)

There is no evidence to suggest that *female genital mutilation* (FGM) is a common practice in Mauritius.\(^{52}\)

*More*

The CEDAW Committee, in its concluding observations, called upon Mauritius to accelerate the enactment of the Criminal Code Bill which seeks to amend section 235 of the Criminal Code on abortion, so that punitive measures imposed on women who undergo *abortion* are removed, and abortion is decriminalised under certain conditions, such as when a woman’s life is in danger.\(^{53}\) In the 2012 report by Gender Links, it is estimated that there are 1, 635 cases of deaths annually as a result of illegal abortions.\(^{54}\)

Up until recently, abortion was an offence under section 235 of the Criminal Code.\(^{55}\) However, following the death of a journalist in 2009 due to complications from an illegal abortion and the relatively high numbers of women hospitalised each year for post-abortion complications, debate and media attention relative to the issue of abortion increased. In mid-2012 the Mauritius National Assembly passed the Criminal Code Amendment bill which allows for the termination of pregnancy in special circumstances, including where necessary to prevent injury to the pregnant person, where there is substantial risk that the pregnancy will result in severe abnormality of the foetus, or where the pregnancy has not exceed fourteen weeks and is the result of rape or intercourse with a female under the age of 16.\(^{56}\)

Having control over the timing and spacing of children is an important aspect of women’s physical integrity. While detailed and recent data on contraceptive use is not available, a reported 76% of married women used contraception in 2002, 39% of whom used a modern form of *contraception*.\(^{57}\) Mauritian women tend to favour

\(^{49}\) CEDAW (2013) p.7
\(^{50}\) Idem
\(^{51}\) US State Department (2012)
\(^{52}\) Inter-Parliamentary Union (n.d.)
\(^{53}\) [http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-MUS-CO-6-7.pdf](http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-MUS-CO-6-7.pdf), p. 9
\(^{55}\) CEDAW (2011a) p.23
\(^{56}\) Gender Links (2012) pp.8; 14
\(^{57}\) Gender Links (2013) p.3; Gender Links (2012) p.66;
traditional methods: withdrawal (27.1%) is the most commonly used method, followed by the pill (15.8%).\textsuperscript{58}

Data from the same survey (2002 Contraceptive Prevalence Survey of Mauritius and Rodrigues Islands) shows that 24% of women age 15-49 (married or in a union) had an unmet need for family planning in 2010.\textsuperscript{59} The Mauritius Family Planning Association reports that in 2011, the percentage of modern contraceptive use amongst sexually active women was 76%, which is the highest percentage in the region.\textsuperscript{60}

3. Son bias

The Central Intelligence Agency reports that in 2013 Mauritius has a male/female sex ratio for the working age population (15-64) of 0.99, and a sex ratio of 1.05 at birth.\textsuperscript{61}

There is no evidence to suggest that Mauritius is a country of concern with respect to missing women.\textsuperscript{62}

More

Figures show that in 2011, the infant mortality rate per 1,000 live births was 13.6 for males and 11.7 for females.\textsuperscript{62} Gender disaggregated data on rates of childhood nutrition are not available for Mauritius.

Mauritius has achieved gender parity in primary, secondary and tertiary enrolments, indicating that there is no preferential treatment of sons in access to education.\textsuperscript{63} In addition, girls perform better than boys in school, and there are more female university students that there are male.\textsuperscript{64}

The Ministry of Education in Mauritius is working towards the revision of textbooks in connection with any stereotypical depictions of gender in textbooks.\textsuperscript{65}

4. Restricted resources and assets

Women can hold titles to land on the same basis as men. Indeed, women have equal rights to buy, own and sell land. They may also inherit land from their parents or other relatives, just like men.\textsuperscript{66} There is no data available on the proportion of land owned by women and, as mentioned above, it should be remembered that while the Constitution prohibits discrimination on the basis of sex, an exemption to the later is maintained with regard to personal status law, including the devolution of property on death, which can affect women’s rights to own land and other forms of property.

With respect to ownership of non-land assets, women are treated equally with men under the law with respect to their legal rights to conclude contracts and administer property without the interference or consent of a male partner (Civil Code, Arts 1402 and 1403).\textsuperscript{67} Specific provisions can apply dependent on the type of matrimonial

\textsuperscript{58} Gender Links (2012) p.67; UN Population Division: Contraceptive Prevalence (2012)
\textsuperscript{60} SADC Gender Protocol 2012 Barometer (2012), p. 67
\textsuperscript{61} Central Intelligence Agency (2013)
\textsuperscript{63} World Economic Forum (2010) p.214; CEDAW (2011b) p.3
\textsuperscript{64} Gender Links (2012) p.8
\textsuperscript{66} World Bank (2013)
\textsuperscript{67} CEDAW (2011c) p.8
regime, but the impact is equally applicable to men and women. The Mauritian Civil Code was amended in 1981 to allow a woman to choose, upon marriage, whether she preferred a separate property or community property regime (Civil Code, Arts. 1400-1403). If she chooses a separate property regime she retains and manages all her own wealth and earnings. While women and men do have the same legal rights to property, the South African Gender Protocol Alliance reports that women are not always aware of their rights.

There are no indications that Mauritian women face discrimination in regards to **access to financial services**, including bank loans, but in a marriage under the community of property regime, either spouse must have their partner’s consent to obtain a loan. In the past, women had been required to provide collateral even for loans as small as 50,000 rupees, representing a major obstacle for poor women who rented their homes and did not own land. As a result of government negotiations with banks, women can now obtain loans of up to 300,000 rupees without collateral.

The National Women Entrepreneur Council (NWEC), established in 1999, is a parastatal body under the aegis of the Ministry of Gender Equality, Child Development and Family Welfare. It provides support to potential and existing women entrepreneurs in Mauritius. It is reported that some 3350 women entrepreneurs are registered with the NWEC. The Council hosts a Market and Incubator Centre; organises training for registered women entrepreneurs through its Women Entrepreneurship Development Programmes; and acts as a platform for networking events amongst women entrepreneurs and business institutions. It also organises trade fairs for women entrepreneurs.

5. Restricted civil liberties

Women are accorded the same legal rights of freedom of movement, **access to public space** and choice of residence as men. Marriage does not limit women’s right to choose her residence and women (unmarried and married) may apply for a passport in the same way as a man. Data on whether women make decisions to visit family and friends is not available.

The constitution and law provide for freedom of assembly and association, and the US Department of State describes the government as generally respecting these rights. Specific information relative to women’s associations and freedom for collective action is not available. All associations in Mauritius, including women’s associations are required to be registered at the level of the Registry of Associations to ensure their legal status, under the Registration of Associations Act (1978). NGOs also register at the level of the Mauritius Council of Social Service (the umbrella organisation for NGOs) and women’s associations register themselves at the level of the National Women’s Council.

---

68 Idem
69 Idem
70 Gender Links (2012) p.16
71 Idem
72 CEDAW (2011a) p.16
74 World Bank (2013)
The government in Mauritius generally respects press freedom. That said the government owns the only domestic television network (international television networks are available via subscription), which has come under repeated critique for its pro-government bias and slanted coverage of National Assembly debates.\(^7\) In addition, discriminatory attitudes are evident in the representation of women’s issues in the media.\(^7\) A 2010 study, which monitored the media in Mauritius, found that if unknown sources are excluded, women constitute just 9% of the political news sources in the media monitored for the study (and 19% more generally).\(^8\) There are similarly few women in senior management positions in the media industry.\(^9\)

With respect to political voice, there are no quotas at the national level to promote women’s political participation. However, the 2011 Local Government Act, which came into effect in early 2012, provides that at least one-third of candidates in local elections must be women.\(^10\) In that same year, women comprised nearly 37% of the elected members at the Municipal Council Election, compared to 13% at the previous election, prior to the Local Government Act.\(^11\) At the Village Council Election, the share of women rose from 5.8% in 2005 to 25.4% in 2012.\(^12\) At the national level, the first appointment of a female Vice President occurred in 2010\(^13\) although women hold only 18.8% of the seats in the national parliament as of 2013 and two of the 25 cabinet minister positions.\(^14\)

### More

Women in Mauritius are entitled to the right to work, and this includes the right to choose a profession, job security, equal pay, benefits, vocational training, maternity leave and child-care. The Employment Rights Act 2008 protects women against discrimination in recruitment and employment, both in the public and the private sector.\(^15\) The Act further provides for provisions against sexual harassment (also covered under the 2008 Equal Opportunities Act).\(^16\) Under the Employment Rights Act, women are entitled to a paid maternity leave of 12 weeks at 100% wages, to be paid by the employer. In addition, women are no longer restricted to three pregnancies, but maternity leave has been extended to all confinements.\(^17\) However, women must have worked for 12 consecutive months with the same employer in order to be eligible for maternity benefits.\(^18\) Finally, there is evidence that wage gaps between women and men in both the public and private sector persist and that labour laws are not adequately enforced.\(^19\)

---

7 US State Department (2012)
79 US State Department (2012)
80 Gender Links (2012) p.8
81 Idem, p.87
82 Gender Links (2012) p.11
83 Gender Statistics Mauritius (2012) p.19
84 Idem
85 Gender Links (2012) p.26; CEDAW (2011) p.6
87 CEDAW (2011a) p.20
88 Idem, p.2
89 Idem, p.3
90 CEDAW (2011b) p.4
91 CEDAW (2011d) p.8
Information on gender differences in access to ICT is relatively limited, although a 2012 study reports that girls aged 12-19 are more likely than boys of the same age to use a computer (87% vs. 84%); at older ages, the reverse is true, although computer use decreases among both men and women. 

Sources


Committee on the Elimination of Discrimination against Women (CEDAW) (2011a) Responses to the list of issues and questions with regard to the consideration of the combined sixth and seventh periodic reports, Mauritius CEDAW/C/MUS/Q/6-7/Add.1, Geneva.


