

SENEGAL

Senegal's 2001 constitution guarantees equality between women and men in its article 7.¹ The country has ratified the Convention on the Elimination of All forms of Discrimination against Women (in 1985), and the Optional Protocol on violence against women (in 2000).² The country has not reported to the CEDAW committee since 1994.³ Senegal ratified the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa in 2005.⁴ A National Strategy for Gender Equality and Equity has been developed, to run from 2005-2015.⁵

In families touched by poverty, women and girls are disproportionately affected, with girls leaving school earlier so that their brothers can continue their educations. Discriminatory practices, especially in the domains of the family and inheritance, persist, although Senegal has succeeded in putting in place a legal framework that, *de jure*, does much to protect women's bodily integrity. While in urban areas laws protecting women are generally respected, rural areas are still dominated by customary and religious practices, and few women are aware of the legal rights that are in place to protect them.⁶

1. Discriminatory family code

The Family Code of 1973 (Art. 111) provides a **minimum age at marriage** of 16 for women and 18 for men, unless an exemption is granted for "serious reasons" by the president of the regional court.⁷ The payment of dowry is legal (Art.132 and Art. 385) and while marriages between brother-in-laws and sister-in-laws is forbidden, the practices of levirate and sororate (by which a man may marry his dead brother's widow or his dead wife's sister) is legal (art.110).⁸

Although forced and **early marriages** are banned in the family code, as is having sexual relations with girls under the age of 13 (Penal Code, Art. 300), such marriages are reportedly quite common.⁹ The 2010-2011 Demographic and Health Survey (DHS) reports that 16% of women age 25-49 were married by age 15, 40% were married by age 18, and 78% by age 25. Among women age 15-19, 24.8% were married, divorced or widowed at the time of the survey.¹⁰

¹ FAO (n.d.); JICA (2007), p.8

² JICA (2007), p.6

³ OHCHR (2014)

⁴ African Union (2010)

⁵ JICA (2007), p.9

⁶ Amnesty International (2010)

⁷ Girls not Brides (2013); Joint NGO Submission CEDAW (2013)

⁸ Africa for Women's Rights (n.d.); Joint NGO Submission CEDAW (2013)

⁹ Joint NGO Submission CEDAW (2013)

¹⁰ DHS (2010-2011) p.58

The 2012-2013 Continuous DHS reports an adolescent fertility rate of 80 per 1,000 women age 15-19, while the 2010-2011 Standard DHS reports a slightly higher figure of 93 per 1000 women age 15-19.¹¹

Customary law and personal law are not recognized as valid sources of law under the Senegalese Constitution, and yet many marriages are customary or religious and thus are not registered. Precise data on the prevalence of registered versus unregistered marriages is not available, although the former are much more common in urban compared to rural areas. Registered marriages can be either monogamous or polygamous (Art. 133 of the Family Code), in which case the husband may marry up to four women.¹² According to the 2010-2011 DHS, 35% of women were in a polygamous union.¹³

The Senegalese Family Code grants **parental authority** solely to the father, and women are unable to take legal responsibility for their children.¹⁴ The father is legally considered the head of the household (Family Code, Art. 152), is responsible for administrative procedures and expenses affecting his children and household (Art. 375), and chooses the family's place of residence (Art 153).¹⁵ When it comes to decision-making, husbands also primarily make choices regarding important household purchases (61.6%).¹⁶ When it comes to decisions regarding the use of women's earnings, however, primarily women themselves do the deciding (81.7%).¹⁷

It is only possible for a woman to become the recognized head of household if her husband formally renounces his authority in court.¹⁸ The proportion of households headed by women stood at 25%, as of 2010-2011.¹⁹

In the event of **divorce**, the issue of child custody is contingent on the type of marriage.²⁰ For civil marriages, the spouses must obtain a judicial divorce (this type of divorce rarely occurs outside urban areas); the court often grants custody to the mother while requiring the father to participate in their upkeep.²¹

On June 2013, Senegal amended its Code of Nationality, thereby ending the difference in treatment between men and women in terms of transmission of Senegalese nationality by marriage, descent or adoption.²²

There are two forms of **inheritance** recognized under the Senegalese system: civil law and Islamic Sharia law.²³ While living, individuals must choose which system they prefer; the default regime is the civil system. Civil law inheritance is favourable to widows and daughters, granting them the same rights as sons.²⁴ It is this form of inheritance that is most common in urban areas. By contrast, under Sharia law, daughters receive half the amount that sons receive, while wives receive a quarter of the inheritance, or an eighth of their husband's property if there are children.²⁵ In rural areas, customary practices vary from region to region. In some cases,

¹¹ DHS (2012-2013), p.32

¹² FAO (n.d.); Joint NGO Submission CEDAW (2013)

¹³ DHS (2010-2011), p.59

¹⁴ Joint NGO Submission CEDAW (2013); World Bank (2013); US Department of State (2012)

¹⁵ World Bank (2013); Joint NGO Submission CEDAW (2013)

¹⁶ DHS (2010-2011), p.282

¹⁷ DHS (2010-2011), p.280

¹⁸ US Department of State (2012)

¹⁹ DHS (2010-2011), p.23

²⁰ Schuerkens (2013), p.1078; Joint NGO Submission CEDAW (2013)

²¹ Schuerkens (2013), p.1078

²² Human Rights Council,

²³ JICA (2007); Landesa (2010)

²⁴ World Bank (2013); Landesa (2010)

²⁵ World Bank (2013); Landesa (2010)

widows are considered to be part of the deceased husband's property, and as such may be pressured to marry his brother, or expected to become part of a son's household.²⁶

More

Repudiation, whereby a man can divorce his wife unilaterally and without warning, is explicitly prohibited by law and women are able to request a civil divorce in the same way as a man.²⁷ However, women may not remarry until a period of 300 days has passed since the dissolution of the previous marriage (Art.112).²⁸ In Islamic marriages, the **power to initiate divorce** lies almost solely with the husband, who may divorce at will. In fact, notwithstanding the secular nature of Senegalese civil law, the most frequent cause of divorce is repudiation.²⁹ Woman who request divorce, especially in customary marriages, may be required to reimburse their husband's for the dowry paid upon married, unless the reason for divorce is due to the husband abandoning the household or if he is sick or impotent.³⁰

2. Restricted physical integrity

The revision of the 1999 Penal Code introduced a clause on **domestic violence**. The law defines the act of domestic violence as a person who voluntarily wounds and strikes blows or commits any other physical abuse against their partner. Domestic violence is punishable with up to five years in prison and fines. This increases to twenty years if the act of domestic violence causes lasting injuries or life imprisonment if it results in death.³¹ Victims are, however, often reluctant to report cases – preferring to appeal to their families to help resolve the issue – and even when they do, the police rarely intervene and few cases reach court.³² There have been critiques of judges, who fail to adequately apply the domestic violence law, and complaints that women's sexual histories are used against them so as to provide more lenient sentences to perpetrators.³³ Accurate up-to-date data as to the prevalence of domestic violence is not available, although data on attitudes suggest the latter is widely accepted. The 2010-2011 Demographic and Health Survey (DHS) reports that 60% of women agreed that her husband was justified in beating her for one of the proposed reasons.³⁴

Rape is also criminalised under the 1999 revised penal code, but spousal rape is not recognised.³⁵ Very few rape cases are taken to court, and of those that are, few result in a conviction; the most recent estimates from the Ministry of Justice report that in 2009, 47% of accused rapists went unpunished and were released without facing a trial.³⁶ In part, this is because sexual violence and rape remain taboo topics and cases are often settled out of court.³⁷ The penalties for rape include fines and a prison sentence of up to 10 years.³⁸

²⁶ FAO (n.d.)

²⁷ Idem

²⁸ Africa for Women's Rights (n.d.)

²⁹ Schuerkens (2013), p.1078

³⁰ Schuerkens (2013), p.1078

³¹ Penal Code (Art 297bis)

³² US Department of State (2012)

³³ US Department of State (2012)

³⁴ DHS (2010-2011), p.286

³⁵ World Bank (2013)

³⁶ US Department of State (2012)

³⁷ US Department of State (2012)

³⁸ World Bank (2013)

Senegal's penal code was revised in January 1999 to include a clause specifically regarding **sexual harassment** (Art. 319bis), and is defined as the act of harassing, threatening, or constraining another with the goal of obtaining favours of a sexual nature and is punishable by fines and a prison sentence; the law increases the penalty if the perpetrator abuses their position of authority.³⁹ While prevalence data is not available, the sexual harassment is reportedly common, and the law not effectively enforced. Women's rights groups have lamented the fact that providing sufficient proof to secure prosecutions is difficult if not impossible and reports of sexual harassment by school staff are common.⁴⁰ A study by Niang, in conjunction with UNFPA and UNIFEM reported survey data in which 18% of women declared that they had, at least, once been asked to have sexual relations to obtain a job or promotion; 16.1% indicated that they had been refused, at least once, a work contract for having refused sexual advances.⁴¹

Female genital mutilation (FGM) has been illegal under the Senegalese Penal Code since 1999.⁴² It is still practised, however, and is more common among Muslims and several ethnic groups than among Christians. According to the 2010-2011 DHS, 25.7% of women aged 15-49 had undergone the procedure,⁴³ but these rates range broadly across region and ethnic groups (from only 0.9% among the Wolofs to 82% among the Mandingues).⁴⁴ On the one hand, this practice is often linked to acceptance, respectability and marriage for young women, making it more difficult for some groups to abandon the practice.⁴⁵ On the other hand, the 2010-2011 DHS reports that only 16.6% of women feel the practice should continue, compared to 78.7% who this it should be abandoned.⁴⁶ There also appears to be considerable political will to challenge and eradicate FGM: in addition to criminalising the practice, the government has worked closely with national and international NGOs on campaigns to encourage abandonment of FGM.⁴⁷

More

Poor provision of services, particularly in rural areas limits access to **contraception**, so while 90% of women reported knowledge of at least one method of contraception⁴⁸, only 12.1% of women aged 15-49 in a union are actually using a modern form of contraception.⁴⁹ Women's access to contraception may be limited due not only to cost and lack of information, but also to inequality within personal relationships. In the 2010-2011 DHS, 66.2% of women report that their husbands primarily make decision concerning their health.⁵⁰ Elsewhere, the US Department of State reports of cases where husbands have asked health practitioners to stop providing their wives with contraceptives.⁵¹ The DHS also reports that 30% of women in a union declare having an unmet need

³⁹ World Bank (2013); Penal Code (Art. 319bis)

⁴⁰ US Department of State (2012); Joint NGO Submission CEDAW (2013)

⁴¹ Niang (2008), p.32 - (cited in Joint NGO Submission CEDAW (2013))

⁴² Niang (2008), p.32

⁴³ DHS (2010-2011), p.295

⁴⁴ DHS (2010-2011), p.295

⁴⁵ Tostan (2009), p.13

⁴⁶ DHS (2010-2011), p.302

⁴⁷ US Department of State (2012)

⁴⁸ DHS (2010-2011), p.97

⁴⁹ DHS (2010-2011), p.100

⁵⁰ DHS (2010-2011), p.282

⁵¹ US Department of State (2012)

for family planning (among all women, this percentage is 19.9%).⁵² The average age at first birth among women age 25-45 is 21.⁵³

Abortion is only legal in cases where the pregnant woman's life is in danger.⁵⁴

Homosexuality is illegal in Senegal.⁵⁵ The punishment for same-sex relations is 1 to 5 years of imprisonment, plus a fine 100000 to 1500000 francs CFA⁵⁶.

3. Son bias

The male/female **sex ratio** for the working age population (15-64) in 2013 is 0.89 while the ratio at birth is 1.03.⁵⁷

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

More

There is virtually no discrepancy between vaccination rates for boys (62.9%) and girls (62.8%).⁵⁸ Infant and early childhood malnutrition rates are slightly higher for boys than for girls⁵⁹, as are infant and under-five mortality rates.⁶⁰

The high cost of education means that, in poorer families, girls' education is often sacrificed to enable their brothers to continue schooling.⁶¹ UNESCO similarly reports that although gender parity has been achieved in primary education, as level of education increases, girls' enrolment rates decrease. In 2009, only 27% of girls were enrolled in secondary education, and for every 100 boys, there were approximately 79 girls.⁶² Son preference thus seems to be a factor in relation to access to education, but not early childhood care.

4. Restricted resources and assets

Under the Senegalese Constitution, women and men have equal property **rights in regard to land ownership**, and there have been government campaigns to encourage leaders in rural communities to ensure that this law is respected.⁶³ Women are legally entitled to acquire and own land independently of their husband or male relatives, and to retain ownership and control over their own property after marriage.⁶⁴ More specifically, the default marital property regime for civil marriages in the separation of property (Family Code, Art. 368), and it is the originally owner who legally administers property during the marriage (Art. 380).⁶⁵ However, as mentioned in the above Family Code section, men are legally head of the household, and as such have greater access to

⁵² DHS (2010-2011), p.108-109

⁵³ Idem, p.82

⁵⁴ UNDP (2010)

⁵⁵ Article 319:3

⁵⁶ Ilga, 2014, <http://ilga.org/ilga/en/countries/SENEGAL/Law> (accessed 05/05/2014)

⁵⁷ Central Intelligence Agency (2013)

⁵⁸ DHS (2010-2011) p.155

⁵⁹ Idem, p.189

⁶⁰ Idem, p.122

⁶¹ JICA (2007) p.17

⁶² UNESCO (2012)

⁶³ FAO (n.d.)

⁶⁴ Idem

⁶⁵ World Bank (2013)

agricultural inputs and, more generally, land and other resources.⁶⁶ In addition, where the dowry system of marriage (Art. 385) applies, any property, assets deposited at the bank, animals, etc. given to the woman upon marriage are to be handed over to her husband. During the marriage, he is tasked with managing these as a “good husband and father”.⁶⁷

More generally, land is allocated – at least on paper – through local administrative processes in Senegal that do not officially recognize land sales or bequests.⁶⁸ Land instead belongs to the national domain and local land committees attribute use rights. Until the Constitution of 2001, women were not allowed to own land in Senegal, and until May 2010 they were not allowed to be members of the aforementioned land committees, and as such rarely received land through this allocation mechanism.⁶⁹ In addition, despite legislation, bequests – including land inheritance – are common, and ownership is primarily obtained through paternal lineage.⁷⁰ As mentioned in the Family Code section, several inheritance law coexist in Senegal, and while the French inspired system of inheritance grants greater equality in the division of wealth among surviving spouses and children than the Islamic inheritance system, survey data reveals the latter system prevails and that very few women (approximately 4%) have any land to transfer to their heirs upon death (compared to more than a third of men).⁷¹

Customary practices relating to land ownership that discriminate against women are specifically banned under the constitution, and yet in practice continue to limit women’s access to land.⁷² In some rural areas, village chiefs assign land under customary law; women rarely benefit from this process.⁷³ In other areas, husbands are obliged to give their wives a portion of land for their own use (and failure to do so is grounds for divorce), but in polygamous marriages, this may result in each wife receiving only a tiny amount of land.⁷⁴

Women and men have the same legal **rights to bank accounts and bank loans** (Family Code Art. 374), but in reality women often struggle to obtain loans.⁷⁵ Because women tend to have use, but not ownership, of land, they are unable to provide the security needed to secure loans.⁷⁶ Many farming cooperatives do not recognise women as producers in their own right, meaning that they cannot access the credit and other services provided by these cooperatives.⁷⁷ In response to the difficulties rural women face in accessing credit, the government has launched a large-scale microfinance initiative.⁷⁸ Relatively low levels of French literacy also complicates access to bank loans and credit; French is the official language of the country and yet only 1 or 2% of Senegalese women speak the latter (compared to 15-20% of men).⁷⁹

⁶⁶ Joint NGO Submission CEDAW (2013)

⁶⁷ World Bank (2013); Africa for Women’s Rights (n.d.)

⁶⁸ Lambert, S. et al (2011) p.8

⁶⁹ Idem

⁷⁰ Idem

⁷¹ Idem

⁷² JICA (2007) p.21; Freedom House (2010)

⁷³ FAO (n.d.)

⁷⁴ JICA (2007) p.21; FAO (n.d.)

⁷⁵ FAO (n.d.); World Bank 2013; Kane, S. (2013)

⁷⁶ FAO (n.d.); Kane, S. (2013) p.46

⁷⁷ JICA (2007) p.22

⁷⁸ Idem, p.25; Kane, S. (2013) p.46

⁷⁹ Joint NGO Submission CEDAW (2013)

5. Restricted civil liberties

Regarding **access to public space**, the constitution and law provide for freedom of movement. However, married women do not have the right to choose where to live, as this right falls exclusively to their husbands (Family Code, Art. 153).⁸⁰ While married and unmarried women may apply for a passport in the same way as a man, and may legally travel outside her home in the same way as a man (Constitution of Senegal, Art. 14),⁸¹ survey data suggests that daily movements are constrained. According to the 2010-2011 Demographic and Health Survey (DHS), 52.9% of women reported that it is primarily their husbands who decide whether they can visit family and relatives.⁸² In addition, 39.9% of women agreed their husband is justified in beating them if they go out without telling him.⁸³

The constitution and law provide for both freedom of assembly and association, although the government has at times restricted the former. Protests staged in the run-up to the presidential election in 2012 were broken up using violent methods, resulting in the injury and/or arrest of many protestors, and the deaths of nine people. Public permits for civil society and political demonstrations were regularly denied or given delayed responses.⁸⁴ There is no specific data on discrimination against women's associations. Women's rights groups are, however, very active in Senegal, leading vocal campaigns against police failure to prosecute perpetrators in cases of violence against women, as well as encouraging communities to abandon FGM.⁸⁵

Women in Senegal enjoy full political rights to vote and stand for election.⁸⁶ Members of Senegalese political parties, women's organisations and NGOs have pushed for a gender **quota** in electoral lists. While a law on gender parity on candidate lists was passed in Parliament in 2007, it was later ruled as unconstitutional by the Constitutional Council.⁸⁷ However, in May of 2010, the National Assembly adopted the Law on Equality of Men and Women in Electoral Lists, and in the 2012 elections that followed 64 women were elected as members of the 150-seat parliament (or 42.7% of seats), up from 33 after the previous election.⁸⁸ The legislation aims to achieve equality at all levels - national, regional, and local – by requiring political parties to submit alternating lists of men and women candidates, with a male-female ratio of 50%.⁸⁹ Candidate lists that fail to comply with the provisions of the law (parity and gender alternation) are not admissible.⁹⁰

More

Freedom of expression is protected by the Constitution and is generally respected.⁹¹ However, journalists have been targeted for criticising of the government and in months preceding the 2012 presidential election, a variety of incidents in which journalists (both male and female) were harassed, threatened, or physically harmed were

⁸⁰ World Bank (2013)

⁸¹ Idem

⁸² DHS (2010-2011) p.282

⁸³ Idem, p.286

⁸⁴ US State Department (2012)

⁸⁵ JICA (2007); US State Department (2012)

⁸⁶ FAO (n.d.); Joint NGO Submission CEDAW (2013)

⁸⁷ Quota Project (2013)

⁸⁸ Freedom House (2013)

⁸⁹ UN Women (2012)

⁹⁰ Quota Project (2013)

⁹¹ Freedom House (2013)

documented.⁹² Specific data on women's representation and participation in the **media** is not available, however, the 2010-2011 DHS reports that women are less exposed to media than are men: the proportion of women with no exposure to media is almost double that of men (20% compared to 11%).⁹³ That said there are a variety of public, private and community media outlets, as well as many independent print outlets.⁹⁴

Concerning **workplace rights**, there are no laws in Senegal mandating non-discrimination based on gender in hiring, nor laws penalizing or preventing the dismissal of pregnant women. Employers must, however, grant women an equivalent position upon their return from maternity leave (Labour Code, Art. L 143).⁹⁵

Women in Senegal are entitled to 14 weeks' paid **maternity leave** financed by the government, but not many women work in the informal sector and are not entitled to such leave.⁹⁶ The World Bank considers 66% of women in Senegal to be economically active.⁹⁷

According to a new law passed in 2013, alien husbands and children born of Senegalese women and alien fathers are now granted **citizenship**.⁹⁸

⁹² Idem

⁹³ DHS (2010-2011) p.39

⁹⁴ Freedom House (2013)

⁹⁵ World Bank (2013)

⁹⁶ Idem

⁹⁷ World Bank (n.d.) Data: Female labour force participation rates

⁹⁸ Africa Review (2013); Star Africa (2013)

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