

Women's rights protection instruments ratified by the Republic of Congo:

- **CEDAW**: ratified in 1982
- **CEDAW Protocol**: signed in 2008
- **Maputo Protocol**: ratified in 2007

Ratify! Although the Republic of Congo ratified the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) in 1982 and the Protocol to the African Charter on Human Rights and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) in 2007, the government has still not ratified the Optional Protocol to CEDAW.

Respect! The Coalition of the Campaign is particularly concerned by the following continued violations of women's rights in Republic of Congo: persistence of discriminatory legislation, discrimination within family, violence against women; and limited access to education, decision-making positions, healthcare and justice.

/ Some positive developments...

The Coalition of the campaign acknowledges the recent adoption of several laws and policies aimed at improving respect for women's rights, including:

- Ratification of the Maputo Protocol in 2007.
- Establishment of the Ministry for the Promotion of Women and the Integration of Women in Development in 2005.
- Establishment of a Commission in August 2009 in charge of drafting and reviewing the laws of the Republic of Congo, with a focus on the Family Code and the Criminal Code, with a view to reforming certain discriminatory provisions.
- Adoption of a new electoral law in May 2007, which encourages female candidates to stand in parliamentary elections. However, the law stipulates a minimum quota of only 15% women candidates to be presented by each party (art. 61).

/ But discrimination and violence persist

IN LAW

In the Republic of Congo, customary law, which is particularly discriminatory against women, continues to apply alongside statutory law. The latter also contains several discriminatory provisions, mainly within the Family Code and the Criminal Code:

FAMILY CODE

Minimum age for marriage: According to article 128, "marriage is prohibited for men under 21 years of age and for women under 18 years of age. Nevertheless, the Public Prosecutor...may grant exceptions for serious reasons".

Dowry: Articles 140 and 141 specify the dowry as a condition of marriage (fixed at a maximum amount of 50.000 F.CFA).

Choice of residence: According to Article 171, “The family’s residence shall be chosen by the spouses in joint agreement. In the absence of such agreement, the residence shall be chosen by the husband. In such case, the wife shall live with the husband and he shall be under an obligation to receive her. However, if the place of residence chosen by the husband presents physical or moral danger for the family, the wife may be permitted a residence of her own and for her children, to be designated by a judge.”

Parental authority: According to Article 168, the wife “may not exercise the role of head of the family”, unless the father is incapable of doing so on the grounds of health, absence or physical distance from the family.

Polygamy is authorised (arts. 121 and 136).

CRIMINAL CODE

The criminal code contains various discriminatory provisions, particularly those concerning adultery (arts. 336 and 337). Thus, if the husband commits adultery, he can be punished with a fine whereas, when committed by the wife, adultery can be punished by a prison sentence.

IN PRACTICE

In Republic of Congo, the effective implementation of laws on the protection of women’s rights comes up against major obstacles including the persistence of customary law and discriminatory traditions and stereotypes on the role of women in society.

• Discrimination in the family

Although women’s rights to inheritance are protected by the Family Code in the event of the husband’s death (arts. 798 to 806), in practice these provisions are often not respected, particularly in customary or de facto marriages, and wives are often expelled from their homes.

The limits fixed by the Family Code on the dowry are very often ignored and the amount that is asked tends to vary according to the level of education of the wife, reaching, in certain cases, amounts of more than one million F. CFA.

• Violence

Although several forms of violence against women are sanctioned by criminal law, including crimes of sexual violence committed during armed conflict, such violence remains widespread. Complaints are rarely filed and perpetrators rarely prosecuted, in part due to the stigmatisation of victims, a lack of information on their rights and available recourse mechanisms, as well as the high cost of legal proceedings and the imposition of amicable settlements. Marital rape is not criminalised.

Crimes of sexual violence are particularly prevalent in displaced persons’ camps, established in the wake of the armed conflicts that have embroiled the country over recent years. Women form the majority of the main population in such camps. Women from certain minorities, such as the *Pygmy*, are also extremely vulnerable to sexual violence.

Although female genital mutilation (FGM) and female circumcision in particular, are not part of traditional culture in Congolese society, this practice still persists,

mostly within the West-African communities. FGM is not specifically sanctioned by the country's laws and can thus only be prosecuted under provisions contained in criminal law on "assaults and injuries" which carry low sentences.

• **Obstacles to access to education**

Although, according to Congolese law, girls and boys have equal access to education, the enrolment rate of girls remains low (52% in primary and 39% in secondary

The Coalition of the Campaign calls on the authorities of the Republic of Congo to:

- **Reform all discriminatory legislation** in conformity with CEDAW and the Maputo Protocol, in particular discriminatory provisions within the Family Code and the Criminal Code.
- **Harmonise civil, religious and customary law**, in conformity with CEDAW and the Maputo Protocol, and ensure that when conflict arises, statutory law prevails.
- **Strengthen laws and policies to protect women from violence and support victims**, including by: adopting a specific law to prohibit all forms of violence against women, including domestic violence and spousal rape; implementing training programmes for legal personnel responsible for enforcing laws protecting women; implementing public awareness raising campaigns; and allocating additional financial resources to the fight against domestic violence.
- **Eliminate obstacles to the education of girls and women**, in particular by: ensuring equal access to all levels of education; adopting measures to retain girls within the education system, including pregnant pupils; launching awareness raising programmes to overcome stereotypes and traditional attitudes; and increasing the budget for education to improve educational infrastructure and teacher training.
- **Take measures to encourage women's participation in public and political life**, in particular by adopting the draft law establishing a quota for women's representation in decision-making bodies.
- **Ensure women's access to quality health-care**, including obstetrics and family planning, in particular by: ensuring access to contraception, particularly in rural areas; and allocating additional funds to health, in order to expand the healthcare infrastructure and increase the number of qualified personnel, particularly in rural areas.
- **Take all necessary measures to ensure women's access to justice**, including by addressing the shortage of judges, facilitating women's access to these positions and ensuring training of police and legal personnel.
- **Adopt all necessary measures to reform or eliminate discriminatory cultural practices and stereotypes**, including awareness raising programmes targeting women, men and governmental, traditional and community leaders.
- **Ratify the Optional Protocol to CEDAW.**
- **Implement all recommendations issued by the CEDAW Committee** in January 2003.

education), in part due to early marriage and pregnancy, as well as the poverty of parents.

• Under-representation in political life

Despite Article 8 of the Constitution which ensures the participation of women in public administration and “guarantees their representation in all political, elective and administrative functions”, as well as the provisions of the electoral law adopted in 2007, the level of participation of Congolese women in public and political life and their share of representation at the highest levels of decision-making are very low. Thus, only 10 women (10.7%) were elected in the last parliamentary elections in 2007, representing 2 fewer women than in the outgoing Parliament. In addition, no political party is led by a woman.

A draft law on the representation of women in decision-making bodies, currently under examination, provides for a quota of a minimum of 30% representation of women as ministers, members of parliament and within government.

• Obstacles to access to health

Women suffer inadequate access to health services, mainly owing to a lack of health infrastructure as well as insufficient human and financial resources. The country has a particularly high rate of maternal mortality (740 per 100,000 births in 2005). Women are generally more affected by HIV/AIDS than men. The low use of contraceptives also contributes to the high rate of early pregnancies.

• Obstacles to access to justice

Women in Republic of Congo face many obstacles seeking access justice, mainly due to a lack of information on their rights and on the laws that protect them, as well as the cost of proceedings and the distance of courts and tribunals. There are only a dozen county courts and four appeal courts in the country, hence the common resort to customary justice and/or amicable settlement.

PRINCIPAL SOURCES

- Focal Point: OCDH
- CEDAW Committee Recommendations, January 2003
- Inter-Parliamentary Union, www.ipu.org
- UNICEF: www.unicef.org
- OIF, www.genre.francophonie.org

For more information on women's rights and the actions of the campaign in the Republic of Congo, see: www.africa4womensrights.org

THE CAMPAIGN FOCAL POINT IN THE REPUBLIC OF CONGO

Observatoire Congolais des Droits de l'Homme (OCDH)



Created in 1994, OCDH is a non-profit, and non-partisan NGO whose mission is to promote, defend and protect democracy, the rule of law and human rights. Its activities include seminars, training sessions and awareness-raising campaigns, lobbying and advocacy work; and providing legal and medical assistance to victims.

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