



COUNTRY PROFILE

The Preamble of Cameroon's 1996 Constitution states that 'the human person, without distinction as to race, religion, sex or belief, possesses inalienable and sacred rights' and further that 'the State shall guarantee all citizens of either sex the rights and freedoms set forth in the Preamble of the Constitution'. The Constitution does not have a Bill of Rights. The principles of equality and non-discrimination, however, are further guaranteed by Article 16 of the Civil Code, Article 1 of the Penal Code and Article 84 of the Labour Code.

Family law in Cameroon is governed by common statutory English law in the anglophone parts of the country, civil law in the francophone parts of the country and by customary law which generally varies among the different regions and ethnic groups within the country.¹⁰² However, the common statutory English law and French civil laws 'prevail over customary law'.¹⁰³ In the event the law is silent on a matter, customary law is resorted to.

Treaty	Date of ratification	Reservations/Declarations
CEDAW	23 August 1994	None
African Charter	20 June 1989	None
Maputo Protocol	13 September 2012	<p>"The acceptance of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa should in no way be construed as endorsement, encouragement or promotion of homosexuality, abortion (except therapeutic abortion), genital mutilation, prostitution or any other practice which is not consistent with universal or African ethical and moral values, and which could be wrongly understood as arising from the rights of women to respect as a person or the free development of her personality.</p> <p>Any interpretation of the present Protocol justifying such practices cannot be applied against the government of Cameroon."¹⁰⁴</p>

This declaration is a set back for the rights of same-sex couples since it effectively negates their rights to equality and non-discrimination, including within the family.

¹⁰² Cameroonian customary law has been looked upon as consisting of countless legal systems, each developed by and applicable to a particular ethnic group. In other words, a system of ethnic identification underlies customary law: customary law has a jurisdiction limited to particular cultural boundaries and it is the possession and right of a restricted ethnic group. Thus, each of the over 250 ethnic groups recognized in Cameroon has its own customary rules. Available at <https://asq.africa.ufl.edu/wp-content/uploads/sites/168/Volume-15-Issue-2-Kiye.pdf> (accessed 17 April 2024)

¹⁰³ JN Temngah 'Customary law, women's rights and traditional courts in Cameroon' (1996) 27 *Revue Générale de Droit* 3 349-356. Available at <https://www.erudit.org/en/journals/rgd/1996-v27-n3-rgd02428/1035782ar/> (accessed 17 April 2024)

¹⁰⁴ [https://au.int/sites/default/files/treaties/37077-sl-PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES RIGHTS ON THE RIGHTS OF WOMEN IN AFRICA.pdf](https://au.int/sites/default/files/treaties/37077-sl-PROTOCOL%20TO%20THE%20AFRICAN%20CHARTER%20ON%20HUMAN%20AND%20PEOPLES%20RIGHTS%20ON%20THE%20RIGHTS%20OF%20WOMEN%20IN%20AFRICA.pdf) (accessed 16 April 2024)

MAIN TRENDS IN FAMILY LAW

Both spouses can initiate a divorce proceeding and the court will grant a divorce where either:

- ▶ There is mutual consent
- ▶ One spouse has deserted the other for a period of one year
- ▶ Married life has broken down
- ▶ There is fault on the part of one spouse¹⁰⁵

Both parents have the same authority over the child, even upon divorce. However, the court can decide on only one parent having parental authority if it is in the best interests of the child.

Both spouses own the matrimonial property. In addition, in the case of *Immaculate Vefonge vs Samuel Lyonga Yukpe*,¹⁰⁶ the Court of Appeal of Buea ruled to sustain a Bakweri custom whereby a husband is forbidden to send away a nursing mother from the matrimonial home or initiate divorce proceedings against her.¹⁰⁷

There is a draft Code of the Person and the Family¹⁰⁸ which has been pending since 2020 and is awaiting adoption by the National Assembly at the time of publishing this Report. If adopted, it will have a favourable impact on women's rights within the family. For instance:

- ▶ Dowry and gifts cannot be returned;¹⁰⁹
- ▶ Spouses owe each other mutual love, respect, fidelity, help, and assistance, in the case of polygamy, each wife has the right to equal treatment in relation to the other wives;¹¹⁰
- ▶ Each spouse has freedom to work without obtaining the consent of the other;¹¹¹
- ▶ In case of dissolution of a marriage, the wife is entitled to her share of the marriage property before the husband;¹¹²
- ▶ In cases of polygamy, all the widows have the right to inheritance shared between them in proportion to the number of years in marriage with the deceased.¹¹³

There is also a draft bill on the Prevention and Punishment of Violence on Women and Gender based Discriminations which protects women.

As per Section 297 the 2016 Penal Code, marriage is no longer an exemption from prosecution if a rapist marries his victim, as was the case in the past. Section 356 of the Penal Code also criminalises forced marriage.

¹⁰⁵ Article 229 of the Cameroon Civil Code 2005. Available at https://landwise-production.s3.us-west-2.amazonaws.com/2022/03/Cameroon_Civil-code_2005-1.pdf (accessed 17 April 2024)

¹⁰⁶ *Immaculate Vefonge vs Samuel Lyonga Yukpe*, Appeal N°CASWP/CC/21/81 (unreported)

¹⁰⁷ <https://vlex.co.uk/vid/traditional-law-and-discriminatory-878468235>

¹⁰⁸ <https://www.scribd.com/document/503738705/Avant-Projet-de-Code-Des-Personnes-Et-de-La-Famille> (accessed 17 April 2024)

¹⁰⁹ Draft Code of the Person and the Family sec 215

¹¹⁰ Draft Code of the Person and the Family (n 17) sec 234(3)

¹¹¹ Draft Code of the Person and the Family (n 17) sec 240

¹¹² Draft Code of the Person and the Family (n 17) sec 459(2)

¹¹³ Draft Code of the Person and the Family (n 17) sec 545(2)

KEY GAPS AND CONTESTATIONS

- (i) **Husband as the head of household:** Article 212-214 of the Civil Code identifies the husband as the head of the household. Article 74 of Cameroon's Civil Status Registration further provides that a husband may object to his wife's exercise of a trade different from his in the interest of their marriage or children. According to Article 1421 of the Civil Code of the Republic of Cameroon, the husband alone administers the common property. He can sell, dispose of and mortgage them without the cooperation of the wife. Moreover, according to article 1428, the husband has the administration of all the personal property of the wife. He alone can exercise all the property and possessory actions belonging to the wife.
- (ii) **Abortion:** Article 337 of the Penal Code, while referring to its Article 339, provides that abortion can only occur in the event of a pregnancy resulting from rape and with the authorisation of the public prosecutor, for medical reasons.
- (iii) **Child marriage:** While Section 356 of the Penal Code criminalises forced marriage, it does not prohibit child marriage. It only provides for a minimum punishment of not less than 2 years in cases of forced marriage of children under 18, regardless of mitigating circumstances. The Civil

Status Registration Ordinance of 1981¹¹⁴ states the minimum marriageable age as 15 for girls and 18 for boys¹¹⁵ with a clause that such marriages should involve the consent of both parties and equally recognised by an official document.¹¹⁶ However, a further waiver from these minimum age requirements can also be granted by the President for serious reasons.

- (iv) **Inheritance:** The Draft Code of the Person and the Family is discriminatory towards widows if the deceased husband does not leave a will. Its Section 919 provides as follows:

“Intestate succession shall devolve by application of the law to the parents and to the surviving spouse in the following order:

- ☐ Descendants
- ☐ Forebears
- ☐ Collaterals
- ☐ Surviving spouse
- ☐ The State”

As a surviving spouse, widows should be inheriting from the deceased husband in a prioritised manner.

- (v) **Polygamy:** Moreover, under the Civil Code and Ordinance 81-02, polygamy is still allowed in the country.

RECOMMENDATIONS

Legal reforms:

- ▶ Adoption of a single law that comprehensively address violence against women including domestic violence, marital rape, and sexual harassment, amongst others.
- ▶ Adopt the draft Code of the Person and the Family, with amendments pertaining to inheritance rights of widows.
- ▶ Amend the Constitution to provide a comprehensive Bill of Rights that provides for gender equality and non-discrimination.
- ▶ Amend the Civil Code to remove the husband as the head of the household and to grant both spouses equality in matters of the household.
- ▶ Amend the Civil Status Registration Act to disallow a husband from having a say in a wife's employment.
- ▶ Increase the age of marriage to 18 without exception.
- ▶ Prohibit polygamy while protecting the rights of those women who are already in polygamous relationships.

¹¹⁴ <https://dignitylawchambers.com/wp-content/uploads/2021/04/Republic-of-Cameroon-Civil-Status-Registration.pdf> (accessed 17 April 2024)

¹¹⁵ Section 52 of the Civil Status Registration Ordinance, 1981. Available at <https://dignitylawchambers.com/wp-content/uploads/2021/04/Republic-of-Cameroon-Civil-Status-Registration.pdf> (accessed 17 April 2024)

¹¹⁶ Section 49 of the Civil Status Registration Ordinance, 1981