



CÔTE D'IVOIRE

COUNTRY PROFILE

The Preamble of the 2016 Constitution of Côte d'Ivoire¹¹⁷ expresses the government's commitment to 'promote equality between men and women', amongst others. Article 4 of the Constitution on equality provides for non-discrimination on the basis of, amongst others, sex. Article 5 further prohibits practices such as 'female genital mutilation as well as all other forms of degradation of a human being'. Concerning family, Article 5 protects the family as the basic unit of society. Article 31 also provides for special protection of the needs of women as a vulnerable group. Concerning the rights of women within the family, Article 35 specifically provides that '[t]he State and public communities ensure the promotion, development and protection of women. They take the necessary measures to eliminate all forms of violence against women and girls.

The Ivorian legal system is based on French civil law. Customary law is also applied in instances where it is not contrary to the civil law.¹¹⁸ Article 4 of the Constitution provides for the promotion and protection of 'customs that do not run counter to public order and the accepted standards of behaviour'. These customs have to be in harmony with the fundamental principles of the Constitution.

Treaty	Date of ratification	Reservations/Declarations
CEDAW	18 December 1995	None
African Charter	6 January 1992	None
Maputo Protocol	5 October 2011	None

MAIN TRENDS IN FAMILY LAW

The Constitution clearly establishes that both parents exercise parental authority. Article 31 provides that "[p]arental authority is exercised by the father and mother or, failing that, by any other person in accordance with the law".

In addition to the Constitutional provisions on gender equality, non-discrimination and custody, in 2019, there were several law reforms that have an impact on women's rights within the family. The first one is Law 2019-570 of 26 June 2019 which has brought about many positive changes concerning laws regulating roles within the family. For instance, Article 51 of the law provides that both spouses are responsible for the family and the children. They are together responsible for managing the moral and material direction of the family. Before this law, the man was the head of the family.¹¹⁹ Furthermore, according to Article 82 of the same new law, the matrimonial property is managed by both spouses.

Moreover, Article 2 of Chapter 2 of Law No 2019-570 of 2019 relating to Marriage in the Civil Code provides that the legal age of marriage is 18 for both men and women. Before the 2019 amendment, the legal age of marriage was 20 for men and 18 for women. They could also be subjected to exceptions in different cases. The amendment did away with the dispensations thus ensuring a strong legal protection of girls against child marriage.

Polygamy was abolished in the country in 1964 while still recognizing the rights of those in polygamous marriages.¹²⁰ However, polygamy still occurs in the country.¹²¹

With regard to gender-based violence, the Penal Code was amended in June 2019 with the strengthening of the criminalisation and repression of several forms of violence: female genital mutilation and forced and early marriages. It contains some provisions that can be used in case of domestic violence such as Article 342 on murder, Article 345 on assault and battery, Article 353 on involuntary manslaughter or unintentional injury, Article 354 on rape, Article 373 on attack on individual freedom and Article 387 on abandonment of

¹¹⁷ <https://faolex.fao.org/docs/pdf/ivc160760.pdf> (accessed 17 April 2024)

¹¹⁸ Sunulex.Africa 'The Ivorian legal system' Available at <https://sunulex.africa/en/theivorianlegalsystem/> (accessed 10 July 2022)

¹¹⁹ A Kone-Silue 'Women and discrimination in Côte d'Ivoire' for McGill Centre for Human Rights and Legal Pluralism (15 November 2018) Available at <https://www.mcgill.ca/humanrights/article/70th-anniversary-universal-declaration-human-rights/women-and-discrimination-cote-divoire> (accessed 10 July 2022)

¹²⁰ Ireland: Refugee Documentation Centre 'Can a "customary" or "religious" marriage be legally recognised; Is there an authority which verifies the authenticity of traditional or customary marriages?; Are polygamous marriages valid?' Available at https://www.ecoi.net/en/file/lo-cal/1168042/1226_1302516830_q13649-cote-d-ivoire.pdf (accessed 17 April 2024)

¹²¹ <https://www.pewresearch.org/religion/2019/12/12/household-patterns-by-region/#:~:text=Around%20the%20world%2C%20polygamy%20is,than%20one%20spouse%20or%20partner.> (accessed 15 April 2024)

family. The country also adopted a National Strategy for Combating Gender-Based Violence (2014-2016). Act No. 2021-894 further addresses measures to protect victims of domestic violence, rape and sexual violence.¹²² whereas Act No. 2019-574 of 26 June 2019 on the Criminal Code, as amended by Act No. 2021-893 of 21 December 2021 criminalises various forms of violence within the family including marital rape, moral or psychological violence, harassment and sexual harassment, forced marriage, early marriage, various forms of violations of personal privacy and incest.¹²³

In 2019, Law 2019-573 of 26 June 2019 to the Civil Code was adopted. This law is important because in rural areas, land was transferred according to customary law, which is usually discriminatory against women.¹²⁴ While this Law now allows for a widow to inherit from her deceased husband, according to Article 26, a surviving spouse only receives a quarter of the estate of the deceased, in conjunction with the children and parents of the deceased.¹²⁵

KEY GAPS AND CONTESTATIONS

- (i) **Same-sex marriage not recognised:** Article 1 of Chapter 1 of the 2019 Law on Marriage provides that a marriage is between a man and a woman. This section is prejudicial to same-sex couples who might want to found a family. In this instance, the law would not protect their rights within the family.
- (ii) **Prescription of waiting days before new marriage:** Article 9 of the Law on Marriage and Article 391 of the Penal Code further contain provisions stipulating that women must wait 300 days after divorce or the death of their husband before contracting a new marriage. This restriction does not apply to men.¹²⁶

RECOMMENDATIONS

Legal reforms:

- ▶ Include same-sex marriage in the laws to ensure the protection of same-sex couples in the family.
- ▶ Remove the requirement for women to wait for 300 days after divorce or death of the husband to remarry.
- ▶ Prohibit polygamy, even in customary and religious marriages while protecting women that are already in polygamous marriages.

Sensitisation campaigns that (1) raise awareness among people in customary marriages to have their marriage registered; and (2) target polygamous marriages to ensure that the rights of women and children in polygamous marriages are protected.

122 <https://famille.gouv.ci/Tmfte/Loi-No-2021-894-portant-sur-les-violences-domestiques.pdf> (accessed 16 April 2024)

123 <https://ishr.ch/wp-content/uploads/2023/07/Voluntary-Pledge-Cote-divoire-HRC-elections-2023.pdf> (accessed 16 April 2024)

124 M Maimona 'Côte d'Ivoire marriage reform as a step for women' for Human Rights Watch. Available at <https://www.hrw.org/news/2019/07/24/cote-divoire-marriage-reform-step-women> (accessed 15 April 2024)

125 LOI n° 2019-573 du 26 juin 2019 relative aux successions. Available at [loi_2019-573_sur_la_succession.pdf](https://famille.gouv.ci/loi_2019-573_sur_la_succession.pdf) (famille.gouv.ci)

126 <https://wbl.worldbank.org/content/dam/documents/wbl/2024/snapshots/Cote-divoire.pdf> (accessed 17 April 2024)