WOMEN, BUSINESS AND THE LAW

Successful Reform Case Studies

August 31, 2022
50+ Years of Women’s Rights in Africa
Reforms to Enhance Gender Equality in Democratic Republic of Congo

- A married woman is obliged to live with her husband where he chooses to reside (Art. 454).
- The wife must obtain the authorization of her husband for all legal acts in which she commits herself to a service that she performs in person (Art. 448).
- The husband administers all marital property, including the wife’s (Art. 490).
- A wife is obliged to obey her husband (Art. 444).
Key Ingredients to Women’s Legal Rights in Kenya

<table>
<thead>
<tr>
<th>Year</th>
<th>Law</th>
<th>Reform Description</th>
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<tbody>
<tr>
<td>2006</td>
<td>Sexual Offences Act</td>
<td>• Enacted protections from sexual harassment in employment with criminal penalties</td>
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<td>2007</td>
<td>Employment Act</td>
<td>• Prohibited the dismissal of pregnant workers, introduced paid paternity leave&lt;br&gt;• Mandated equal remuneration for work of equal value&lt;br&gt;• Eliminated the ban on women’s employment in mining and in industrial undertakings at night&lt;br&gt;• Prohibited gender discrimination in employment</td>
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<td>2013</td>
<td>Matrimonial Property Act</td>
<td>• Recognized the value of nonmonetary contributions to household income and welfare</td>
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<td>2015</td>
<td>Protection Against Domestic Violence Act</td>
<td>• Enacted legislation protecting women from domestic violence</td>
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Challenging Entrenched Marital Power in South Africa

1953: The Matrimonial Affairs Act (Bertha’s Bill) is passed, curtailting marital power and allowing wives to conduct certain transactions.

1984: Marital power is prospectively abolished for all civil marriages by the Matrimonial Property Act.

1988: An amendment to the Matrimonial Property Act prospectively abolishes marital power for civil marriages between Black people.

1993: The General Law Fourth Amendment repeals the husband’s marital power over the wife for all civil marriages, regardless of when they were contracted.

1998: Marital power is abolished for all marriages contracted through customary law by the Recognition of Customary Marriages Act.


2021: Agnes Sithole challenges her husband’s marital power in court, resulting in its removal on all marriages between Black people conducted before 1988.

Political momentum

Women’s activism

Strategic litigation
Taking Stock of Lessons Learned

- Inadequate resources for dissemination
- Limited awareness
- Weak implementation and enforcement
- Underrepresentation of women
- Prevailing gender norms
Strategies for the Way Forward

1. Address remaining legal gaps
2. Implement laws and regulations
3. Engage a variety of stakeholders