

TOGO
A BRIEF ON DISCRIMINATION IN WORK AND EMPLOYMENT,
PAID MATERNITY AND PATERNITY LEAVE, AND CHILD
MARRIAGE
(CEDAW ARTICLES 2, 5, 11, 16)

*Information for the Committee on the Elimination of Discrimination Against Women
92nd Pre-Sessional Working Group, February 2025*

Submitted By

The WORLD Policy Analysis Center
University of California, Los Angeles



TABLE OF CONTENTS

INTRODUCTION2

Summary of Findings and Recommendations.....3

1. Non-Discrimination in Work and Employment (Article 11)3

2. Paid Maternity and Paternity Leave (Articles 11, 5).....4

3. Child Marriage (Articles 16, 2)4

Detail of Constitutional and Legislative Findings.....6

1. Non-Discrimination in Work and Employment (Article 11)6

2. Paid Maternity and Paternity Leave (Articles 11, 5).....7

3. Child Marriage (Articles 16, 2)9



INTRODUCTION

The WORLD Policy Analysis Center, based at the University of California, Los Angeles, captures quantitative policy data on more than 2,500 indicators that matter to equality, health, and well-being. We strive to improve the quantity and quality of globally comparative data available to policymakers, citizens, national governments, intergovernmental organizations, civil society, and researchers for all 193 UN member states. We submit the following brief in advance of the 92nd Pre-Sessional Working Group of the Committee on the Elimination of Discrimination against Women.

This brief will focus on the following areas:

1. Discrimination in Work and Employment (Article 11)
2. Paid Maternity and Paternity Leave (Articles 11, 5)
3. Child Marriage (Articles 16, 2)

We have collected and analyzed information on rights, laws, and policies in these areas for all 193 UN member states using a variety of sources, including primary national legal sources (e.g. original legislation and constitutions), national reports on policies and laws to the United Nations and official global and regional bodies, and secondary sources where clarification or corroboration of primary data is needed. Using a rigorous double-coding process, we create original databases which distill thousands of pages of text to highlight the essential features of each right, law, or policy. These original databases are the reference for the following brief. When drafting each brief, we perform a series of additional verifications to ensure the data provided reflects available information on the current constitutional and legal landscape of a country.

In this report we first provide a summary of our legislative findings, as well as suggested questions for the Committee to ask Togo and topics we hope the Committee will address in its concluding observations. This summary is followed by detailed legislative excerpts documenting our findings. We hope the Committee will recommend that Togo address any gaps in consultation and collaboration with relevant stakeholders, including civil society organizations. We also recognize that while having strong laws and policies in place are necessary first steps, implementation is also of paramount importance. In areas where we have commended Togo for having provisions in place, we hope the Committee will recommend that Togo work with stakeholders to overcome any obstacles in implementing these provisions.



SUMMARY OF FINDINGS AND RECOMMENDATIONS

1. [Discrimination in Work and Employment \(Article 11\)](#)

Togo’s Labor Code prohibits discrimination based on gender and family status. The Labor Code also broadly protects against discrimination in work on the basis of pregnancy, but only specifically prohibits discrimination on this basis in hiring and training. It additionally mandates equal pay for work of equal value regardless of sex, but does not extend this protection based on family status or pregnancy. We did not identify any protections against discrimination in employment based on marital status. A summary of these protections is provided in Table 1.

Table 1. Guaranteed legal provisions of non-discrimination in Togo across key areas of employment

| | Sex | Marital Status | Family Status | Pregnancy |
|-----------------------------------|-----|----------------|---------------|-----------|
| Broad protection | ✓ | | ✓ | ✓ |
| Hiring | ✓ | | ✓ | |
| Promotions/demotions | ✓ | | ✓ | |
| Vocational training | ✓ | | ✓ | ✓ |
| Remuneration | ✓ | | | |
| Terminations | ✓ | | ✓ | |
| Equal pay for work of equal value | ✓ | | | |



RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS

We hope the Committee will:

- In its list of issues, ask Togo: can Togo outline any concrete, near-term plans to pass legislation that **comprehensively prohibits discrimination at work** -- in hiring, training, promotions and demotions, remuneration, and terminations – **on the basis of marital status**?
 - If concrete, near-term plans are not in place, recommend in its concluding observations that Togo pass and implement legislation that enacts protections against discrimination on the basis of marital status in all of the dimensions cited above.

2. Paid Maternity and Paternity Leave (Articles 11, 5)

While Togo provides 14 weeks of paid leave to new mothers, our review of available legislation found that fathers in Togo are entitled to only two days of leave when there is a birth in their household.

RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS

We hope the Committee will:

- In its list of issues, ask Togo: Can Togo describe concrete, near-term plans to expand paternity leave?
 - If concrete, near-term plans are not in place, recommend in its concluding observations that Togo pass and implement legislation that increases the duration of paternity leave. Ensuring fathers' access to an adequate duration of paid paternity leave is foundational to increasing gender equality in caregiving responsibilities and gender equality in employment.

3. Child Marriage (Articles 16, 2)

The minimum age of marriage in Togo is 18 for both boys and girls; however, courts may authorize marriages as young as 16 for serious reasons if parents give their consent. Child marriage rates in Togo



are quite high: As of 2017, 25% of women aged 20-24 at the time of survey had been married before age 18 and 6% had been married before age 15,¹ so this remains an issue of concern.

RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS

We hope the Committee will:

- In its list of issues, ask Togo: does Togo have any concrete, near-term plans to eliminate all exceptions to the legal minimum age of marriage?
 - If Togo does not have concrete, near-term plans, recommend in its concluding observations that Togo ensure that all applicable legislation establishes 18 years as the minimum age for marriage without any exceptions.

¹ UNICEF data – Child Marriage. Retrieved November 7, 2024 from <https://data.unicef.org/topic/child-protection/child-marriage/>



DETAIL OF CONSTITUTIONAL AND LEGISLATIVE FINDINGS

While the following review is systematic and rigorous, we recognize that there may be laws or policies governing these areas that we have not captured, including new legislation or policies that have not yet been published globally.

1. Discrimination in Work and Employment (Article 11)

Article 11 of the Convention outlines specific measures States Parties shall undertake in order to eliminate discrimination in the field of employment.

We systematically reviewed national labor codes, gender equality, and other relevant legislation available through the International Labour Organization’s NATLEX database for all 193 UN member states to determine whether national legislation prohibited gender discrimination in employment. We examined legal protections across five areas covered by CEDAW:

- employment opportunities or hiring
- equal pay for work of equal value
- training
- promotions or demotions
- job security or terminations

We assessed whether women were explicitly protected from discrimination at work in each of these areas and whether the definition of discrimination included both direct and indirect discrimination.

We also examined whether there were explicit protections from discrimination in terminations on the grounds of pregnancy and marital status, in line with Article 11.2.a) of the Convention, which prohibits “dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status”. We further examined whether explicit protections from terminations on the basis of family status were in place. Given the disproportionate role of women in caregiving, discrimination based on family status will have a greater impact on women.

Finally, although the Convention focuses only on protecting from dismissal on these grounds, we nevertheless further examined whether discrimination on the grounds of pregnancy, marital status, or family status was prohibited in other stages of employment because of the centrality of these protections from preventing sex discrimination at work, which the convention protects against more broadly.



TOGO'S LEGISLATIVE PROVISIONS: COMPREHENSIVE PROTECTION AGAINST GENDER DISCRIMINATION IN THE WORKPLACE, BUT GAPS REMAIN ON DISCRIMINATION ON THE BASIS OF FAMILY STATUS, MARITAL STATUS, AND PREGNANCY

Togo's labor legislation prohibits discrimination on the basis of gender and family status and mandates equal pay for work of equal value regardless of sex. The Labor Code also prohibits discrimination on the basis of pregnancy. There are no provisions on discrimination based on marital status.

Code du Travail 2020, amended to 2022

Article 4 : Toute discrimination directe ou indirecte en matière d'emploi et de profession est interdite.

Par discrimination, on entend toute distinction, exclusion ou préférence fondée sur le sexe, la couleur, la religion, l'appartenance à une ethnie, une race, l'opinion politique ou philosophique, les activités syndicales ou mutualistes, l'origine, y compris sociale, les mœurs, le statut juridique, l'ascendance nationale, l'apparence physique, l'âge, la situation de famille, l'état de grossesse ou de santé, la perte d'autonomie ou le handicap, et qui a pour effet de réduire ou d'altérer l'égalité de chance ou de traitement en matière d'emploi ou de profession.

Par emploi et profession, on entend l'accès à la formation professionnelle, l'accès à l'emploi et aux différentes professions, ainsi que les conditions d'emploi.

(...)

Article 39 : Aucune personne ne peut être écartée d'une procédure de recrutement, aucun travailleur ne peut être sanctionné ou faire l'objet d'une mesure discriminatoire directe ou indirecte telle que définie par le présent code, en raison de son origine, y compris sociale, de son sexe, de sa couleur, de son âge, de ses mœurs, de sa situation de famille, de son appartenance à une ethnie, une race, de ses opinions politiques ou philosophiques, de ses activités syndicales ou mutualistes, de son statut juridique, de son ascendance nationale, de son apparence physique, de ses convictions religieuses ou de sa perte d'autonomie ou de son handicap sauf inaptitude constatée par le médecin-inspecteur du travail, en raison de son état de santé.

(...)

Article 155 : Dans les conditions prévues au présent titre, tout employeur est tenu d'assurer, pour un même travail ou un travail de valeur égale, l'égalité de rémunération entre les travailleurs, quels que soient leur nationalité, leur sexe, leur âge ou leur statut.

2. Paid Maternity and Paternity Leave (Articles 11, 5)

Article 11.2 of the Convention states that:

In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

(a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;



(b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;

Further, Article 5(b) of the Convention emphasizes the importance of including men in the upbringing of children:

To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

Research evidence indicates that paid paternity leave can increase gender equality in caregiving responsibilities and gender equality in employment; it is therefore important to ensure fathers have access to adequate paid paternity leave.

We systematically reviewed national labor codes and social security laws to assess the availability of paid maternity and paternity leave. We relied primarily on legislation downloaded through the International Labour Organization's NATLEX database. Additionally, for confirmation or clarification on legal provisions, we consulted trusted secondary sources including the Social Security Programs throughout the World (SSPTW) database, and the International Review of Leave Policies.

TOGO'S LEGISLATIVE PROVISIONS: 14 WEEKS OF PAID LEAVE FOR MOTHERS; ONLY TWO DAYS FOR NEW FATHERS

Togo's Labor Code provides for 14 weeks of maternity leave at full pay, plus an additional year of unpaid leave for new mothers. There are no Labor Code provisions on paternity leave, although a generally applicable collective bargaining document allows new fathers two paid days on the occasion of a birth in the household.

Code du Travail, 2021

Art. 190 : Toute femme enceinte, dont l'état a été constaté par un médecin, peut quitter le travail sans préavis et sans avoir de ce fait à payer une indemnité de rupture de contrat.

A l'occasion de son accouchement, et sans que cette interruption puisse être considérée comme une cause de rupture du contrat, toute femme a le droit de suspendre son travail pendant quatorze (14) semaines consécutives, dont six (6) semaines après la délivrance.

(...).

Convention Collective Interprofessionnelle du Togo, 2011

Article 45: Permissions exceptionnelle



Des permissions d'absences exceptionnelles, dans les limites fixées ci-dessous, non deductibles du congé annual et n'entraînant aucune reduction de salaire, peuvent être accordées au travailleur ayant au moins six mois d'ancienneté dans l'entreprise pour les événements suivants à justifier par la presentation des pieces d'état civil ou d'une attestation délivrée par les autorités dûment qualifiées à cet effet:

(...)

- *Naissance au foyer 2 jours*

(...)

3. Child Marriage (Articles 16, 2)

Child marriage disproportionately affects girls, often leading to social, economic, educational, and health inequalities, which States Parties have committed to eliminating. Article 16.2 of the Convention calls on States Parties to legislate a minimum age of marriage and prohibit the marriage of children. Additionally, disparities in the legal minimum age of marriage between girls and boys contravenes Article 2(a) of the Convention, which commits States Parties to “embody the principle of the equality of men and women” in their “national constitutions or other appropriate legislation”.

We systematically reviewed national civil codes and child-related legislation for all 193 UN member states to determine whether national legislation established a minimum age of marriage for both girls and boys generally, with parental consent, and under religious and customary law. We reviewed all legislation available through the Lexadin World Law Guide, Foreign Law Guide, International Labour Organization’s NATLEX database, regional sources, and official country websites.

TOGO’S LEGISLATIVE PROVISIONS: GIRLS (AND BOYS) AS YOUNG AS 16 MAY BE MARRIED

The minimum age of marriage in Togo is 18 for both boys and girls; however, courts may authorize marriages as young as 16 if parents give their consent.

Code de l’enfant, 2007

Art. 267 - Le mariage des enfants est interdit. L’âge de la nuptialité est fixé à dix-huit(18) ans révolus.

Cependant, le président du tribunal de première instance peut accorder des dispenses aux enfants des deux sexes âgés de seize (16) ans révolus pour motifs sérieux.

Art. 270 - L'enfant même âgé de seize (16) ans ne peut contracter mariage sans l'autorisation de ses père et mère ou, à défaut, de la personne qui, selon la loi, a autorité sur lui. En cas de désaccord entre les père et mère, cette divergence emporte autorisation.



The last recorded child marriage rates in Togo are quite high. As of 2017, 25% of women aged 20-24 at the time of survey had been married before age 18 and 6% had been married before age 15,² so this remains an issue of concern.

BRIEFING PREPARED BY THE WORLD POLICY ANALYSIS CENTER, UNIVERSITY OF CALIFORNIA, LOS ANGELES

² UNICEF data – Child Marriage. Retrieved November 7, 2024 from <https://data.unicef.org/topic/child-protection/child-marriage/>