



OUR LITTLE WHITE PAPER ON WOMEN'S RIGHTS

MATRIMONIAL REGIMES

REGIME OF COMPLICITY IN THE COUPLE

STEPS TO TAKE IN CASE OF SEXUAL HARASSMENT
IN THE WORKPLACE

REMEDIES AGAINST VIOLENCE AND
DISCRIMINATION AGAINST WOMEN

DIVORCE PROCEDURES

*“Don't mind me.
I'm from another planet. ♀
I always see horizons where you draw borders”.*

Frida Kahlo



Women's rights are a vast subject, with multiple issues that systematically raise a plethora of frustrations. Even for a lawyer, it would be presumptuous to claim to be able to cover the entirety of such a subject by writing only about twenty pages.

Our intention is not to say everything, but to address only the essential.

The essence of the questions that torment women in our society, the essence of the barriers that are erected daily in their path and the essence of the answers that we are able to provide with our humble baggage as lawyers.

This little white paper is a modest and symbolic present that we are sending to women here and elsewhere and to our society, of which they are the progenitors.

Aurélie CHAZAI

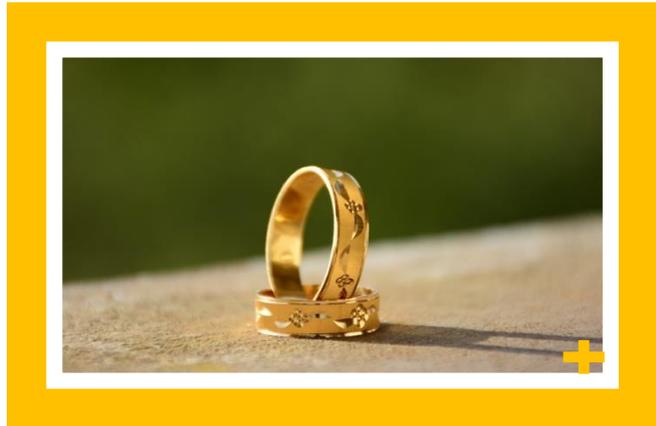
Managing Partner

Lawyer at the Cameroon and Paris Bars.



MATRIMONIAL REGIMES IN CAMEROON

In Cameroon, matrimonial regimes are still determined by the provisions of articles 1387 to 1581 of the Civil Code of 1804. The lawmaker has given a certain freedom to the spouses to organise the management of their property by signing before a notary what is called a marriage contract prior to the marriage ceremony. The marriage contract must not be contrary to good morals¹, the notary in charge of certifying it being the guarantor of the legality of the clauses contained therein.



In order to guide the future spouses in the drafting and choice of clauses governing their future family property, the lawmaker provided for some rules of property management depending on whether they wish to choose a community or a separation as to property regime. The Civil Code therefore provides for several types of community and separation as to property regimes.

When the spouses have not signed a marriage contract prior to the marriage ceremony, the lawmaker provided for a default general legal framework/ordinary law applicable to them depending on whether they opt for community of property or separation as to property, known as the legal regime.

In order to better understand these concepts, we will analyse the rules of each regime, namely community of property (a) and separation of property (b). We will mention the dowry regime, which is no longer used in practice today (c).



b. Community regimes

In a community regime, the property of the spouses is wholly or partly shared. Under this heading, one can find the legal community regime and the conventional regime/ community by agreement.

¹ Good morals are understood here to mean all the rules imposed by morality and from which the parties cannot derogate by their agreements. ("https://fr.wikipedia.org/wiki/Bonnes_m%C5%93urs")

i. The legal community regime

The legal regime, provided for by articles 1400 to 1496 of the Civil Code, is established by a simple declaration by the spouses before the civil registrar that they are marrying under the regime of community. The rules establishing the legal community regime refers to the general legal framework/ordinary law of matrimonial regimes in Cameroon². This regime is still called community of movables and acquits. It includes all the movable property that the spouses owned on the day of the marriage ceremony, and the ones they received through succession or as a gift during the marriage, if the donor has not said otherwise.

In addition to these movables, there are fruits, income, interest and arrears arising from their business, due and received since the marriage and especially all the fixtures acquired during the marriage. It is important to note that for the real estate received as a gift or inheritance after the marriage, unlike the movable property, it does not enter into the community.



This regime also takes into account the debts contracted by the spouses after the marriage and the family expenses³. It also takes into account debts from inheritances received by the spouses during their marriage if the community had received these assets and debts on movable property contracted before the marriage by the wife insofar as they result from an authenticated act prior to the marriage.

The lawmaker gives the husband broad powers in the management of the community. Indeed, the husband is the head of the family and as such, he alone administers the property of the community. He can sell, alienate and mortgage them without the wife's approval⁴. However, in practice, this provision is challenged by the wife's consent, which is always required before the notary prior to the sale of the real property of the community, in order to avoid possible actions for nullity of the sale.

² Article 1393 of the Cameroonian Civil code.

³ Articles 1409 – 1420 Cameroonian Civil code.

⁴ Articles 1421 Cameroonian Civil code.

Several reasons can dissolve the community: natural death, civil death, divorce, separation from bed and board and separation as to property⁵. In the case of marriage breakdown, the obligations of the spouses cease and the property is divided equally between the spouses or between one spouse and the heirs of the deceased spouse.

ii. Conventional regime or community by agreement

This regime is deemed conventional because it refers to the marriage contract drawn up by notarial act allowing the spouses, while remaining under the community regime, to include or exclude part of the property from joint management while respecting articles 1387, 1388, 1389 and 1390 of the Civil Code.

The lawmaker, in order to allow the spouses to have references for an adapted community regime upon which they can rely to draft their marriage contract, has provided for some types of community agreements:



- The community limited to the joint property: The community will only consist of the immovable property acquired during the marriage and the movable property existing at the time of the marriage or due since the marriage. Excluded from the community are therefore the debts of each of the spouses, present or future, and their respective present or future movable property, i.e. property acquired by each of them⁶.
- The regime excluding wholly or partly the movable property from the community: the spouses may exclude from their community all their present and future movable property. In this type of community, the spouses are only liable to the community for the sum they have promised to contribute and must therefore justify this contribution as is the case in the formation of a company⁷. In order to allow the repossession at the time of the dissolution, the movable property that belongs to each spouse must be inventoried.
- The real property clause: The real property clause brings all or part of the present and future real estate into the community of property⁸. It should be specified that the real property clause can be determined when the spouse has declared to include into the community such a property in whole or up to a certain amount; the husband who administers the community

⁵ Article 1141 of the Cameroonian Civil code.

⁶ Articles 1498 and 1499 of the Cameroonian Civil code.

⁷ Articles 1500 – 1504 of the Cameroonian Civil code.

⁸ Articles 1505 – 1509 of the Cameroonian Civil code.

cannot dispose of such a property but can mortgage it up to the required amount.

The real property clause shall be indeterminate when the husband has simply declared that he is bringing his real estate into the community, up to a certain amount. The community will not be the owner of the aforementioned immovable property, but in the case of dissolution, the owner of the immovable property will be obliged to include it in the estate for the purposes of sharing up to the due amount.

It should be pointed out that, as in the case of legal community, when the wife's immovable property or immovable properties are fully included into the community, the husband may have access to them as if they were community property and dispose of them in whole.⁹

- Separation as to debts clause: the spouses agree to exclude their personal debts from the community of property¹⁰. Therefore, at the time of dissolution, the spouse whose debts have been paid by the community will have to reimburse the amount.

- The wife's right to free and clear repossession of property: it allows the woman to take back all or part of her contribution in case of renunciation of the community¹¹.
- Preferential additional portion: it is an advantage conferred by the marriage contract to the surviving spouse on the common estate at the time of the dissolution of the community¹².



- Clauses on unequal shares in the community: notwithstanding the provisions on property sharing, this clause aims at granting the surviving spouse or his heirs either a share less than half, or a fixed amount, or in certain cases, the entire community will belong to him¹³.

Accordingly, the contribution to the debts of the spouse thus advantaged or disadvantaged shall be proportional to his or her assets. Any clause to the contrary shall be null and void.

⁹ Article 1507 paragraph 2 of the Cameroonian Civil code.

¹⁰ Articles 1510 -1513 of the Cameroonian Civil code.

¹¹ Article 1514 of the Cameroonian Civil code.

¹² Articles 1515 – 1519 of the Cameroonian Civil code.

¹³ Articles 1520 – 1525 of the Cameroonian Civil code.

- **Universal community:** it assumes that nothing is excluded from the community. Thus, all the movable and immovable property of the spouses, whether present or future, or only present or future, will constitute the community estate.¹⁴

It is important to specify that these rules are for general guidance purposes only and that the spouses may, in strict compliance with the mandatory provisions, draft their own contract with the clauses they wish to apply.



b. The separation as to property regime
 These clauses are less numerous, namely the clause relating to marriage without community (2.1) and the clause of separation of property (2.2).

i. The clause relating to marriage without community
 This clause applies to spouses who have declared before the civil registrar that they wish to be separated as to property.

Although the wife remains the owner of the property she has brought into the marriage, she does not have the right to administer her property, nor to collect the fruits of it. It is the husband who retains the administration of movable and immovable property¹⁵. The lawmaker explains that these fruits are brought to the husband in order to support the expenses of the marriage. However, the wife will annually receive certain portions of her income for her well-being and personal needs, and in case of dissolution, the property shall be given to her.

ii. The separation as to property clause

Each spouse is the owner of what he or she acquired before the marriage and what he or she acquires during the marriage. The wife retains the administration, enjoyment and free disposal of her personal property¹⁶.

In addition, and as expected, each of the spouses contributes to the expenses of the marriage according to what has been agreed in the marriage contract. Failing that, each spouse contributes in proportion to his or her respective abilities¹⁷.

¹⁴ Article 1526 of the Cameroonian Civil code.
¹⁵ Articles 1530 – 1535 of the Cameroonian Civil code.
¹⁶ Articles 1536 – 1539 of the Cameroonian Civil code.
¹⁷ Articles 214 and 1537 of the Cameroonian Civil code.

c. The dowry regime



It is a matrimonial regime in which the wife brings a dowry which refers to the property brought to the husband to support the expenses of the marriage. This dowry cannot be constituted or even increased during the marriage, because, generally speaking, the constitution of all the wife's property does not include future property.¹⁸ It is also a regime where only the husband has the administration of endowed assets during the marriage. The only exception is that real estate constituted as a dowry cannot be alienated or

mortgaged during the marriage, neither by the husband nor by the wife, nor by both of them jointly, except for the establishment of their children or children that the wife would have had from a previous marriage.

Nevertheless, in this dowry regime, the wife has the right to have paraphernalia. These represent all property that is not part of the dowry.¹⁹ Over her assets, she has all the rights that a woman under separation as to property regime has over her property.

in Cameroon, there is a distinction made between the matrimonial regimes that we have just analysed and the matrimonial system that can be polygamy or monogamy. In any case, the choice of system does not impinge on the choice of regime because, even in the polygamous marriage, it is possible to opt for community of property. Indeed, as it has been decided by case law, in the case of polygamy, there is as much community with the husband as he has wives²⁰, and in the case of sharing after dissolution, account shall be taken of the assets existing at the time each marriage was contracted.

¹⁸ Article 1540 – 1563 of the Cameroonian Civil code.

¹⁹ Articles 1564 – 1580 of the Cameroonian Civil code.

²⁰ [Les regimes matrimoniaux : option d'un système matrimonial \(cas de la polygamie\) - légavox \(legavox.fr\)](https://legavox.fr/les-regimes-matrimoniaux-option-d-un-systeme-matrimonial-cas-de-la-polygamie)

THE LEGAL REGIME OF COMPLICITY IN THE COUPLE



In criminal matters, the principle is that of individual responsibility. Therefore, no one can be reprehensible, that is prosecuted and sentenced for offences that he or she has not committed, even if it is a parent or spouse.

In the case of the married woman, the same principle applies to the offences committed by her husband, unless it can be proven that she participated in the said offences by contributing in any way whatsoever, in which case it will be called complicity.

In view of recent events involving married women who are accomplices to offenses committed by their husbands, it seemed appropriate to analyse the characteristics of this complicity.

Complicity is then a consensual participation that can take several forms, ranging from simple adherence to the criminal project of others, to true criminal organization, through different varieties of association or connivance.

Thus, when the participant in a collective action does not himself carry out the constituent elements of the offence but voluntarily associates with it, in the terms provided for by the law, and is not punished as an autonomous participant, he is an accomplice.

More precisely, the accomplice is an accessory participant, who agrees to contribute to an offence, under certain conditions (a) and as such is subject to particular repression (b).

a. CONDITIONS OF COMPLICITY

According to Article 97 of the Penal Code:

“(1) the following persons are accomplices to an offence classified as a felony or misdemeanour: a) anyone who in any way incites the offence or gives instructions to commit it; b) anyone who aids or abets the preparation or commission of the offence. (2) Attempted complicity shall be considered as complicity itself”.



Aiding and abetting thus appears as a mode of participation in an offence, which presupposes that several conditions are met: some are linked to the existence of a punishable principal act, others are linked to participation. Finally, complicity requires that the person acted knowingly.

With regard to the punishable principal act, we can say that there is no punishable complicity if the principal act is not punishable.

This is because the act of the accomplice would in some way borrow its criminality from the principal offence. Thus, the accomplice will only be punished to the extent that the principal act constitutes an offence.

With regard to the fact of participation, the Penal Code qualifies as an accomplice anyone who in any way provokes the offence or gives instructions to commit it. This provision highlights complicity by assistance and complicity by instigation.

Aiding and abetting can consist of facilitating the preparation or consumption of the offence. This may involve the provision of material means (providing a weapon, making noise to cover the victim's cries, etc.) or simply encouraging the commission of the offence (moral aid or assistance).

As for complicity by instigation, it is split into complicity by providing instructions and by provocation.

As regards the provision of instructions, or the provision of intellectual means, it is a question of information given with full knowledge of the facts, sufficiently precise to be necessary to carry out the offence (the victim's address, the time of collection of funds by a van, etc.). As regards provocation, it must not only be followed by effects, but also take place through a gift, promise, threat, order or abuse of authority or power.

The important thing about complicity is that it must result from a positive act, prior to or concurrent with the offence. Nevertheless, here again this principle is mitigated. Indeed, subsequent complicity resulting from a prior agreement remains punishable. Concerning the posteriority of the punishable act, Article 99 of the Penal Code also provides in its paragraph 2:

“Also punished as accomplices are those who, knowing the criminal conduct of the criminals, usually provide them with places of retreat or meeting”.

With regard to the knowing act, we can say that in all cases, the accomplice is punishable only if he or she knowingly associated himself or herself with the principal act that is, knowing that his or her actions or words will serve to commit the offence. This intentional element will logically be deduced from the

performance of acts of provocation or instruction with a view of committing the offence; and in the presence of aid or assistance, it should be noted that the accomplice acted knowingly, that is that he or she was aware of and wished to associate himself or herself with the principal act.

b. THE REPRESSION OF THE SPOUSE'S COMPLICITY

Article 98 of the Penal Code states:

- “(1) Co-perpetrators and accomplices shall be liable to the same punishment as the principal perpetrator, except in cases where the law provides otherwise.*
- (2) The personal circumstances which result in exemption from liability, exemption, mitigation or aggravation of punishment have effect only with respect to the perpetrator or accomplice in whose person they occur.*
- (3) The actual circumstances have no effect against the co-perpetrator or accomplice unless the co-perpetrator or accomplice could foresee them”.*

Through these provisions, Cameroonian law advocates severity by assimilating the accomplice to the perpetrator. This identity in the repression concerns the principal or complementary penalties incurred, in their principle. As for their measure, it depends on the circumstances of the main action.

It is important to note, however, that the punishment of spousal aiding and abetting may run afoul of family immunity. Family immunity is a device provided for certain offences and which prevents criminal prosecution because of family ties between the perpetrator and the victim of the offence or another party. This concept is provided for in Article 323 which states:

“Articles 318, 319 and 322 are not applicable between spouses, between ascendants and legitimate or adoptive descendants or between ascendants and natural descendants up to the second degree if they live together or are recognized, against the widow or widower on the property of primary necessity that belonged to the deceased spouse”.



In the light of this provision, it is understood that family immunity does not make the offence disappear but prevents it from being prosecuted. Thus, the Penal Code makes impossible or inadmissible such offences as theft, that is the fraudulent taking of another

person's property, breach of trust and swindling under Article 318 between spouses and other persons having a family relationship, but also of the surviving spouse with regard to the property that belonged to his or her predeceased spouse.

Two major reasons are given for looking the other way on theft within the family: either the fact that the family patrimony constitutes a kind of co-ownership of all family members or the fact that the legislator wants to safeguard family peace. In addition, this immunity applies equally to the special cases of the offences listed above: theft, breach of trust and fraud, as defined in Article 319. It will be necessary that the stolen or embezzled thing is indispensable to the daily life.

However, aggravated theft, breach of trust and aggravated fraud under Article 320 are excluded from the benefit of this immunity. We have in this same logic the skulduggery of Article 322²¹.

All these incompatibilities contribute to creating inequality between those who are supposed to be equal, which is why immunity will only benefit the person targeted by the law. Thus, when a family member is targeted as an accomplice in the case of an offence against family assets, he or she logically benefits from family immunity²². Thus, the accomplice spouse in this case cannot be criminally prosecuted.

At the end of our analysis, we can say that Cameroonian law advocates severity by assimilating the accomplice to a perpetrator. This assimilation is however limited by family immunities. Thus, a married woman who is an accomplice in an attack on her spouse's property cannot be held criminally liable.

²¹ It is a variety of theft that consists of being served while knowing that you cannot or will not pay what is owed.
²² Cass. crim. 6 Oct. 1853, N°492.

STEPS TO TAKE IN THE EVENT OF SEXUAL HARASSMENT IN THE WORKPLACE



Harassment is a violence based on relationships of domination and intimidation, the purpose or effect of which is to degrade the victim's living conditions and have an impact on his or her physical or mental health. Harassment can be sexual, moral, by telephone or on the Internet (cyber-harassment).

Sexual harassment can be defined as unwelcome and unwanted sexual advances, requests for sexual favors and other verbal or physical contact of a sexual nature that creates a hostile or offensive environment. Abuse of authority in the form of threats about working conditions, blackmail for promotion or dismissal, in order to obtain sexual favors, is clearly sexual harassment.

More discreet attitudes are also sexual harassment, when the insistence of sexual propositions, repeated indecent remarks, frequent inappropriate physical approaches among others, create an intimidating, outrageous climate, even without the expression of obvious threats.

The professional world favours interpersonal relationships that can lead to sexual relations because of the proximity and the generalized mixing of the workplace. In addition, seduction attempts are very frequent, to the point

that nearly a third of couples are said to form in the workplace²³.

Most often, sexual harassment is confused with any act or behaviour that is a simple attempt at seduction that is poorly appreciated and not explicitly discouraged, a degradation of previously consensual intimate relationships, a paranoid interpretation, malicious manipulation.

Sexual harassment can occur during working hours, in the workplace or during professional events or trips (trade fairs, seminars, conventions, business

development trips, etc.). It can be committed by members of the company or members of client or partner companies in order to obtain sexual favors for the employer's benefit under duress. The harassers and harassed can be both men and women, and the harassment can be heterosexual or homosexual.

It is a fact that women are the most affected by this phenomenon of harassment in the workplace, and it is therefore necessary to provide them with the tools they need to effectively curb it. We will therefore consider the preventive measures available to them (a) before focusing on the solutions provided for when harassment becomes effective (b).

a. MEASURES TO PREVENT SEXUAL HARASSMENT IN THE WORKPLACE

It is important to note that when preventive measures are properly applied, they can certainly avoid legal proceedings, the delicacy of which

makes the professional climate unhealthy. These measures include regulatory measures (i); and information measures (ii).

i. Regulatory measures :

In Cameroon, the Penal Code incriminates harassment in its Article 302. Indeed, like many countries and the international community, it was deemed imperative to take effective measures to prevent and prohibit sexual harassment in the workplace²⁴. It is for this reason that Cameroon has taken part in and ratified the international conventions against violence and harassment such as the Convention No. 190 and Recommendation No. 206 of the International Labour Organisation.

The Cameroonian Labour Code in particular and the various collective agreements applicable to certain sectors do not contain any clear provisions on the prevention of sexual harassment in the workplace. However, each company has the possibility to establish and condemn such behaviour in its internal regulations as being liable to sanctions or even dismissal in the event of a repeated offence. However, what about the harassment of the employer towards his employee?

This is the place to point out and deplore the lack of relevant provisions relating to harassment in the various labour law texts. This is why we recommend the drafting of precise provisions in this

sense to allow the regulation of this phenomenon to the maximum, so that women are not forced to automatically resort to the criminal judge to obtain justice.

²⁴ ILO, 2003 Report of the Committee of Experts on the Application of Conventions and Recommendations (Articles

19, 22 and 35 of the Constitution), Report III (Part 1A) ILC, 91^e Session, Geneva, p463.

ii. Information measures:

In our opinion, information measures are essential in order to clearly define what constitutes sexual harassment, to detail unacceptable behaviour, gestures and comments, to indicate potential sanctions and to indicate complaint procedures. Therefore, it is important to include provisions on sexual harassment in the company's internal regulations.

This is how, with clear messages, ambiguities, misunderstandings and taboos that are so common in interpersonal relationships related to sexuality and that are conducive to denial (assertions of normality, of lack of seriousness) and delaying tactics (evocation of provocative attitudes) can be removed.

Sexual harassment awareness activities and training should be conducted, possibly with the assistance of outside human resource management consultants.

It is only with the knowledge that their possible behaviour is being questioned in their work environment, that the perpetrators of harassment will refrain from adopting inappropriate behaviours. In fact, it is a question of silencing taboos through effective and efficient communication so that these practices, considered natural, normal and conferred by superiority, can disappear with the feeling of impunity of their authors.

As for the victims, knowing that they are protected and within their rights, they will be less hesitant to protest. On the contrary, they will be more inclined to refer immediately to the rules, without acrimony or value judgement, in order not to offend and to maintain good professional relations, which is usually enough to discourage the harasser.

b. SPECIFIC STEPS TO TAKE IN THE EVENT OF SEXUAL HARASSMENT

The global community has made it clear that violence and harassment in the workplace cannot be tolerated and must stop²⁵. In cases of sexual harassment, the following steps should be taken by victims:

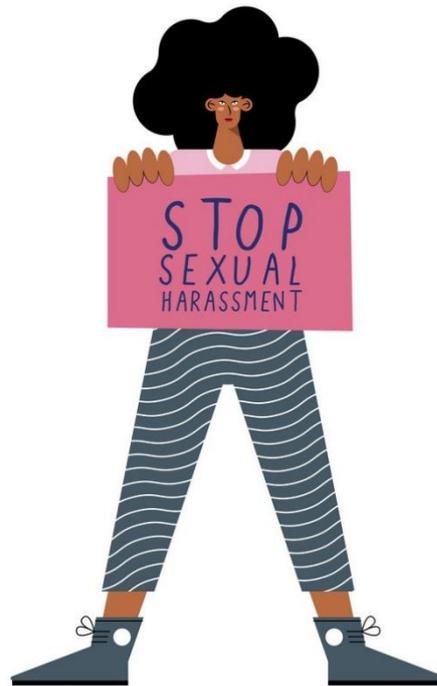
²⁵ In June 2019 during the centenary of the ILO, at the International Labour Conference where the Convention on Violence and Harassment (No. 190) and the accompanying Recommendation (No. 206) were adopted.

i. Disclosure:

Victims of sexual harassment are often reluctant to report it. This reluctance stems from several factors: the “normalization” of sexual harassment; lack of knowledge of its constituent elements; fear of retaliation from co-workers, supervisors, family members or employers; lack of effective recourse or reporting mechanisms; and the presence of stereotypes that place the blame on the victim of the harassment rather than on the perpetrator.

In addition, it is sometimes difficult to establish the facts, especially when sexual harassment occurs without a witness, which can make it difficult to obtain evidence that can substantiate the allegations.

Therefore, for any victim of sexual harassment in the workplace, it is necessary to report the facts to the personnel representatives or to the managers as soon as the first signs of sexual harassment appear, even in the absence of formal proof. It is important to remember that, in practice, sexual



harassment constitutes gross misconduct that can lead to the transfer, temporary suspension or dismissal of the harasser.

In the event of gross misconduct, the contract may be terminated without notice, subject to the discretion of the competent court as to the seriousness of the misconduct²⁶.

ii. Legal remedies:

If you are a victim of sexual harassment, you can file a complaint with the competent State courts. A complaint against the alleged perpetrator of the facts to the competent courts as soon as possible is highly recommended, because it is an offence: an act prohibited by law and liable to criminal sanctions.

It is important to specify that the denunciation does not prevent the judicial recourse, being understood that sexual harassment is a punishable act.

²⁶ Article 36(2) of the Cameroonian labour Code.

Indeed, sexual harassment in general is punishable in Cameroon by the Penal Code²⁷ which provides for an imprisonment penalty of six (06) months to one (01) year and a fine of one hundred thousand (100,000) CFA Francs to one million (1,000,000) CFA Francs for anyone who, using the authority conferred by his position, harasses others by giving orders, making threats, imposing constraints or exerting pressure with the aim of obtaining favours of a sexual nature. The penalty is imprisonment of between one (01) and five (05) years, if the victim is a minor. The penalty is imprisonment of three (03) to five (05) years, if the perpetrator is a person in charge of the victim's education.

If you are a victim of harassment and you wish to know how to initiate a public action and bring a case before the repressive jurisdiction in Cameroon, we highly recommend our educational videos on this subject which you can find by clicking on the links below:

<https://web.facebook.com/100063594372474/videos/2574012906255170> (part 1)

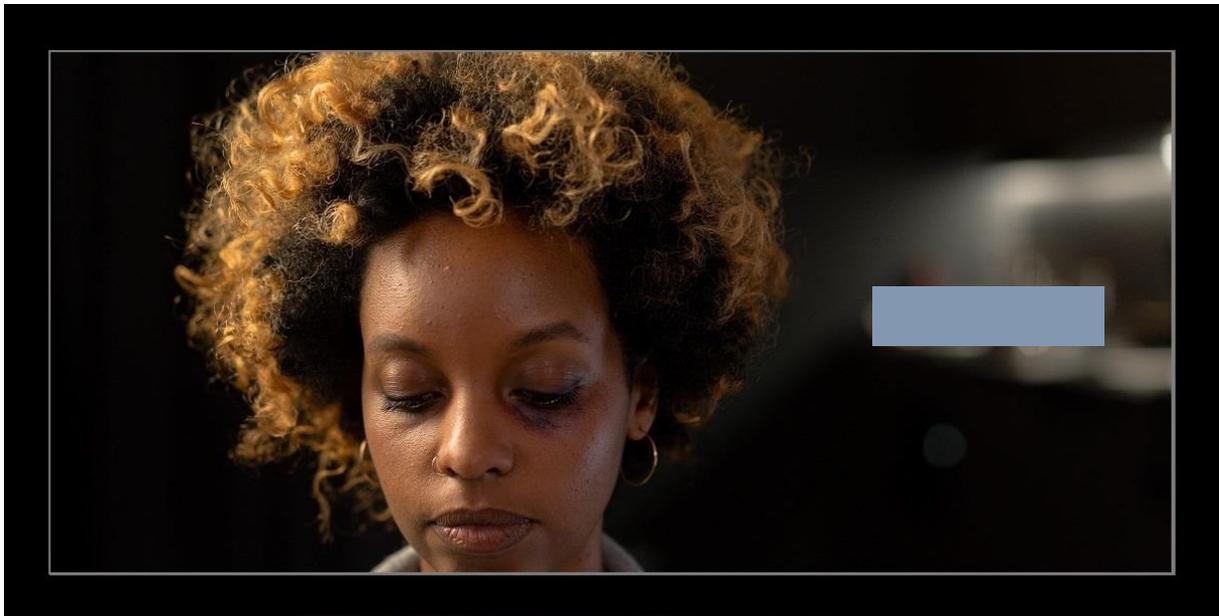
<https://web.facebook.com/100063594372474/videos/535418847372130> (part 2).

It is then clear that sexual harassment in the workplace is an act punishable by the Penal Code, but before the victim can take the matter to court, we recommend that as soon as the first signs of harassment are perceived, an alert be launched in order to prevent the situation from getting worse. It is quite clear that allowing the situation to escalate before taking action could have serious physical and psychological consequences on the victim and even impact the profitability of the company.



²⁷ Article 302 of the Cameroonian penal Code.

REMEDIES AGAINST VIOLENCE AND DISCRIMINATION AGAINST WOMEN



Increasingly, women are subject to gender-based violence and discrimination and are thus marginalized in the society.

Violence is any act of aggression likely to harm the physical or psychological integrity of the person against whom it is directed²⁸.

Violence against women refers to all acts of violence directed against the female gender, which cause or are likely to cause physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether in public or private life²⁹. These acts of violence can be materialized by³⁰:

- Domestic violence (beatings, psychological violence, marital rape, *femicide*);
- Verbal abuse;
- Economic violence (denial of resources, opportunities or services);
- Sexual harassment or assault (rape, unwanted sexual advances, street harassment, cyber harassment);

²⁸ G.CORNU, Vocabulaire Juridique, Association Henri CAPITANT, 12 éd.

²⁹ Article 1 [Declaration on the Elimination of Violence Against Women](#)

³⁰ E. NGONO ASSOGO, Violence against women: the case of Cameroon

<https://www.vie-publique.fr/eclairage/19593-la-lutte-contre-les-violences-faites-aux-femmes-etat-des-lieux>, La lutte contre les violences faites aux femmes : état des lieux.

- Early marriage of young girls;
- Forced marriage;
- Female genital mutilation (incision);
- Human trafficking (slavery, sexual exploitation) etc.

These acts are strongly condemned by various national and international organizations (UN, NGOs, women's rights associations), as well as by various international and national conventions and laws such as the Declaration on the Elimination of Violence against Women, the Protocol to the African Charter on the Rights of Women, and the Penal Code in force in Cameroon.

There is no specific recourse provided by the legislator to report any act of violence against women. In the event of violence, victims can use the procedures of common law to report the violence they have suffered and obtain compensation for the damage caused by it, if they so wish.

There are several possibilities for a woman who is a victim of violence. She can, depending on the case:

- Make the violence suffered acknowledged in a hospital established by the establishment of a medical certificate;
- Go to the premises of the social affairs services in order to denounce the facts of violence and to raise the awareness of their perpetrator;
- File a complaint at the nearest police or gendarmerie unit for investigation;
- In case of resistance, summon or arrest the perpetrator of the violence in front of the police or gendarmerie unit for a hearing;
- Bring the matter to the attention of the criminal courts in order to obtain the conviction of the accused;
- Contact the services of a lawyer to initiate all procedures deemed useful to repair the damage suffered.



Discrimination is any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field³¹.

There are several cases of discrimination against women institutionalized either by law or by custom, namely³²:

- The concept of head of the family (the husband as head of the family);
- Polygamy;
- Discriminatory assessment of certain offences such as adultery;
- The denial of freedom in marriage by the woman;
- The right of correction of the wife by the husband;
- Submission to widowhood rites;
- Submission to genital mutilation;
- The disrespect of the duty of fidelity by the spouse;
- The existence of discriminatory inheritance rules (exclusion of the wife from the estate).

Except in cases of succession³³ where it is expressly provided by the Civil Code that all legitimate or natural children, without distinction of sex or primogeniture, are equal and have the same rights, no recourse is expressly provided by the legislator in order to allow the woman to denounce any form of discrimination of which she is victim.

However, the Constitution of Cameroon in its preamble states that:

“The Cameroonian People,

Proclaims that every human being, regardless of race, religion, sex, or creed, has inalienable and sacred rights...

³¹ Article 1 Convention on the Elimination of All Forms of Discrimination against Women.

³² M. NJANDEU MOUTHIEU, *La discrimination à l'égard de la femme : une atteinte à l'égalité des sexes*.

³³ Article 745 of the Cameroonian Civil code.

All men are equal in rights and duties. The State provides all citizens with the conditions necessary for their development...;

The State guarantees to all citizens of either sex, the rights or freedoms listed in the Preamble of the Constitution...”

By these provisions, the equality of all Cameroonian citizens, men and women, is enshrined in Cameroon. To act in a discriminatory manner in this case is in violation of the Constitution. Therefore, any discrimination related to sex can be denounced before the organizations for the protection of women's rights, the media, and even the courts.

Also, to allow women to be better equipped against these discriminations of all kinds, it is important for parents to work for the education of their daughters as well as their sons. Indeed, through the education of young women and children, it is possible to make a contribution to the building that will allow all these discriminations to fall. Only by informing them of their rights and obligations in society can they be better equipped to fight discrimination.

DIVORCE PROCEDURES



Divorce refers to the dissolution of a marriage pronounced at the request of the spouses or of one of them, by the High Court³⁴. It is also understood as being the dissolution of the marriage pronounced by a court judgment³⁵. From these two definitions, it is clear that divorce means the dissolution of the marriage pronounced by a judgment of the competent court, at the request of one of the spouses.

In Cameroon and in civil law, divorce can only be pronounced following several causes among which:

- Adultery of one of the spouses³⁶;
- The sentencing of one of the spouses to a penalty of affliction and infamy³⁷;
- Excesses, abuse or insults that may constitute a serious or repeated violation of the duties and obligations resulting from the marriage and which render the maintenance of the marital bond intolerable³⁸.

³⁴ G. CORNU, Vocabulaire juridique, 12^e éd.

³⁵ Larousse dictionary.

³⁶ Articles 229 and 230 of the Cameroonian Civil code.

³⁷ Article 231 of the Cameroonian Civil code.

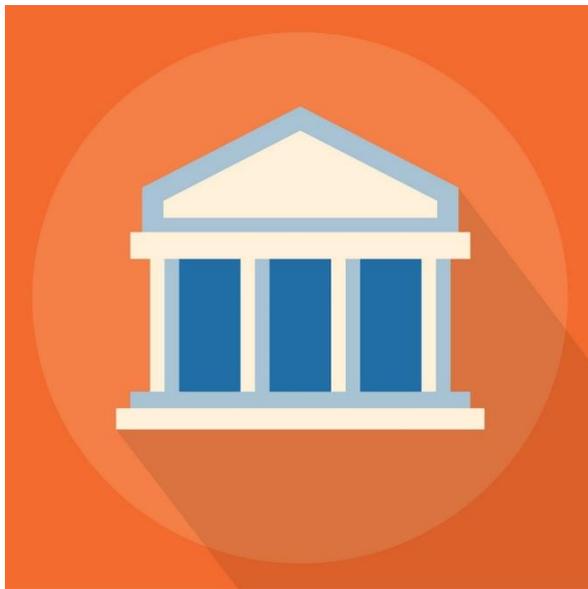
³⁸ Article 232 of the Cameroonian Civil code.

The possibility being recognized to the parties to be applied the custom in divorce, the causes of divorce will in this case be appreciated according to the custom retained³⁹.

When one of these conditions is met, the spouse who feels the need to definitively break the marital bond can go to court to obtain a divorce.

The divorce procedure is then initiated by a request addressed to the president of the competent court. In Cameroon, the said procedure can take place before two (02) jurisdictions with very different characteristics.

c. THE COURT OF FIRST DEGREE (TPD)



This means that a spouse who does not wish to be judged before the TPD may, upon simple request, before being heard, ask that the Court relinquish jurisdiction so that the case may be brought before another jurisdiction, in particular the High Court.

In this case, the Court will refer the parties to the appropriate jurisdiction to deal with the dispute.

The advantage of the TPD is that it is less expensive in terms of procedural costs and the proceedings are faster.

Before the TPD, the custom of the parties applies. In case of divergent customs, the husband's custom prevails. It is important to specify that this Court can only rule if the spouses agree to be tried before it.

In the event of a declination of jurisdiction⁴⁰ raised by the other party, the procedure will be terminated⁴¹.

Thus, the spouse wishing to obtain a divorce shall address a petition for divorce to the President of the Court of the place of the marital home, who shall summon the spouses to a date to be fixed by him or her so that they may appear and be heard on the claims contained in the petition.

³⁹ As an example, we can cite repudiation, which is a cause for divorce in Bamileke custom.

⁴⁰ That is to say, in case of refusal to be judged by this Court.

⁴¹ Article 2 Decree No. 69/DF/544 of 19 December 1969 to lay down the judicial organization and procedure before the traditional courts in East Cameroon.

In the absence of a declination of jurisdiction and on the basis of the declarations made by the parties, the judge, after the opinion of the Public Prosecutor, will pronounce the divorce and will inform the parties of their right to appeal⁴².

d. THE HIGH COURT



Before this Court, only the provisions of the Civil Code are applicable⁴³. On the other hand, the procedure is longer and the related costs are more expensive. Here, the procedure is subdivided into two phases:

i. The conciliation phase

This phase is mandatory and is initiated by means of a petition for divorce addressed to the President of the High Court. Following this request, the President of the High Court issues an order allowing the spouse who filed the petition to summon his or her spouse to conciliate.

Throughout this phase, the conciliating judge tries to reconcile the parties by leading them to find a solution to their various problems in order to avoid a possible divorce. At the end of the conciliation, the judge will issue an order marking either the conciliation or the non-conciliation and will pronounce, if necessary, provisional measures according to the case⁴⁴.

ii. The judgment phase

It is opened in case of failure of the conciliation attempt. It begins with a writ of divorce served by a bailiff to the other spouse to inform him or her of the date of the hearing at which he or she must appear. During this phase, the judge will rule on the parties' claims and, after receiving the opinion of the Public Prosecutor, will pronounce the divorce between the spouses. The decision rendered is subject to appeal within a period of three (03) months from the notification of the judgment⁴⁵.

The divorce produces effects⁴⁶ both with regard to the parties and to the children, in particular:

⁴² Articles 24 to 29 Decree No. 69/DF/544 of 19 December 1969 to lay down the judicial organization and procedure before the traditional courts in East Cameroon.

⁴³ Articles 234 and following Cameroonian civil Code.

⁴⁴ By provisional measures we mean the decisions that the conciliating judge can take while waiting for the pronouncement of the divorce by the court of judgment, it can be about the custody of the children, the alimony, the school fees of the children etc...

⁴⁵ Article 189 Cameroonian Code of civil and commercial procedure

⁴⁶ Articles 295 and following Cameroonian civil Code.

- The dissolution of the marriage having existed between the spouses;
- The cessation of all rights and obligations arising from the marriage with respect to the spouse against whom the divorce has been pronounced;
- Allocation of alimony to the divorcing spouse;
- Where applicable, the award of damages to the spouse who obtained the divorce;
- The possibility for each spouse to remarry;
- The liquidation of the matrimonial regime (community of property) having existed between the spouses;
- Where applicable, the awarding of custody of the children to the spouse who obtained the divorce or to the spouse who would be best able to safeguard the interests of the children⁴⁷.

⁴⁷ In practice, young children are systematically entrusted to their mother because she can better take care of them, unless their father can prove otherwise.

This little white paper was co-authored by the following authors:

- Anne FOUTIE, Junior associate in the firm;
- Thierry Henri NGOMBONO, Junior associate at the firm;
- Arlette EBANGO, Trainee Lawyer in the firm;
- Rose NDJIB, Trainee Lawyer in the firm;

Under the supervision of Barristers Paul Ariel KOMBOU and Flavia NANGMO, Senior Associates in the firm.



chazai wamba

BUSINESS LAW FIRM FOR AFRICA

Business Law Firm For Africa

7bis, rue de Monceau — 75008 Paris – France

Bld. de la République — Immeuble CEDAM, Bali

P.O Box 4937 Douala — Cameroon

T : +237 233 432 617

Email: contact@chazai-wamba.com

Website: www.chazai-wamba.com