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[Home](#)

> [Research Program](#)

> Responses to Information Requests

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## Responses to Information Requests

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Responses to Information Requests (RIR) respond to focused Requests for Information that are submitted to the Research Directorate in the course of the refugee protection determination process. The database contains a seven-year archive of English and French RIRs. Earlier RIRs may be found on the UNHCR's [Refworld](#) website. Please note that some RIRs have attachments which are not electronically accessible. To obtain a PDF copy of an RIR attachment please email [Basesdedonnees.DatabaseUnit@irb-cisr.gc.ca](mailto:Basesdedonnees.DatabaseUnit@irb-cisr.gc.ca).

14 October 2015

### GIN105293.FE

Guinea: Domestic violence, including legislation, protection provided to victims and support services (2012September 2015)

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

#### 1. Background

*Country Reports on Human Rights Practices for 2014*, published by the US Department of State, indicates that domestic violence was committed "frequently" in 2014 (US 25 June 2015, 25). Similarly, in its concluding observations on the seventh and eighth reports presented by the government of Guinea, the United Nations Committee on the Elimination of Discrimination Against Women (CEDAW) states that it was concerned by the [UN English version] "persisting high prevalence of violence against women, including domestic violence" (UN 14 Nov. 2014, para. 32(a)).

In a 2013 report, Guinea's Ministry of Social Action, and Promotion of Women and Children (ministère de l'Action sociale, de la Promotion féminine et de l'Enfance, MASPFE) states that the 2009 national survey on gender-based violence, with the support of 4 UN agencies, reveals that 8 out of 10 women are victims of domestic violence in Guinea (Guinea Feb. 2013, 12). As an update to the 2009 survey, the National Office for Gender and the Advancement of Women (Direction nationale de la promotion féminine et du genre), part of MASPFE (Africa Guinée 11 Apr. 2014), launched a call for submissions, posted on the Guinean news site Actuonakry in May 2015, that states that

[translation]

[t]he [Guinean] population remains strongly influenced by ancestral customs that promote the domination of man over woman to the point of tolerating physical violence as an accepted manner of a wife being corrected by her husband (Guinea 21 May 2015).

Similarly, in correspondence sent to the Research Directorate, the President of the association The Same Rights for All (Les mêmes droits pour tous, MDT), an organization that promotes and defends human rights in Guinea, states that, [translation] "in the traditional way of thinking, domestic violence is almost legitimate, even commonplace" (MDT 28 Sept. 2015).

A copy of the 2009 national survey on gender-based violence as well as statistics on crimes related to domestic violence could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

#### 2. Legislation

The MDT President stated the following: [translation] "there is no specific document that deals with the issue of domestic violence" in Guinea's national legislation (MDT 28 Sept. 2015). Similarly, *Country Reports 2014* states that "[t]he law does not directly address wife beating" (US 25 June 2015, 22).

Cited in a *Flamme d'Afrique* article, a journal published by the Panos Institute West Africa (PIWA) [1], Mohamed Camara, a constitutional jurist, states that women who are victims of domestic violence can appeal to the Penal Code; he refers more specifically to articles 295 and 303 (PIWA 28 Nov. 2014a, 5). A report by the American Bar Association (ABA) on access to justice in Guinea, prepared in collaboration with the African Assembly for the Defense of Human Rights (Rencontre africaine pour la défense des droits de l'homme, RADDHO), provides the following typology of offences in the Penal Code and the related legal provisions under which perpetrators of domestic violence may be prosecuted:

- Murder, punishable by the death sentence or life imprisonment (articles 282 to 289 of the Penal Code);
- Rape (article 321);
- Indecent assault (articles 322 to 325);
- Assault and battery (articles 295 to 305);
- (articles 290 to 294) (ABA Jan. 2012, i, 1314).

Articles 295 to 298 and article 303 of the Penal Code state the following:

[translation]

Article 295: - Any individual who, voluntarily, assaults or batters causing an incapacity to work of less than 20 days will be punished by imprisonment of 16 days to 2 years and a fine of 50,000 [about C\$9] to 200,000 Guinean francs [about C\$36], or one of these two penalties.

In cases of premeditation or ambush, the sentence shall be imprisonment of two to five years and a fine of 100,000 to 300,000 Guinean francs.

Any individual who, voluntarily, commits violence or assault likely to cause a severe impact on a reasonable person will be punished by the sentences above.

Article 296: - When battery, or other violence or assault, causes an illness or personal inability to work of more than 20 days, the guilty party will be punished by imprisonment of 2 to 5 years and a fine of 50,000 to 500,000 Guinean francs.

Moreover, the individual may be deprived of the rights set out in article 37 of this Code for at least 5 years and at most 10 years, as of the day when they receive their sentence.

In cases of premeditation or ambush, the sanction shall be penal servitude of five to 20 years.

Article 297: - When the violence, assault or battery is followed by mutilation, amputation or failure to use a limb, blindness, loss of an eye or other permanent disabilities, the guilty party will be punished by penal servitude of five to ten years.

In cases of premeditation or ambush, the sanction shall be penal servitude of five to 20 years.

Article 298: - Assault, battery and voluntary violence, inflicted without intending to cause death, but having nevertheless caused it, are punished by penal servitude of five to 20 years.

In cases of premeditation or ambush, the sanction shall be penal servitude for life.

[...]

Article 303: Any individual who voluntarily assaults or batters a pregnant or nursing woman will be punished by imprisonment of 2 to 5 years and receive a fine of 50,000 to 300,000 Guinean francs.

When the violence, battery or assault is followed by mutilation, amputation or failure to use a limb, blindness, loss of an eye or other permanent disabilities, the guilty party will be punished by penal servitude of 5 to 20 years.

If the assault, battery or voluntary violence is inflicted without intending to cause death, but has nevertheless done so, the guilty party will be punished by penal servitude for life.

Voluntary violence, assault and battery between spouses is punished, based on its severity, by the sentences set out in articles 295 to 298 of this Code.

However, the spouse who is the victim may stop the prosecution or the effect of the sentence by granting the other party a pardon (Guinea 1998, Art. 295, 298, 303).

*Country Reports 2014* notes that the Guinean law does not address the issue of marital rape (US 25 June 2015, 25). A report submitted in 2014 to the UN Committee on the Elimination of Discrimination Against Women by five civil society organizations [2], including the International Federation on Human Rights (Fédération internationale des ligues des droits de l'homme, FIDH), states that marital rape is not considered a crime (FIDH *et al.* Oct. 2014). Similarly, in its concluding observations on the seventh and eighth reports of Guinea, the Committee on the Elimination of Discrimination Against Women states that it remains concerned about "[the State party's] failure to criminalize marital rape" (UN 14 Nov. 2014, para. 32). Accordingly, in its responses to the recommendations made by the UN Human Rights Committee, the Guinean government states that "[a]lthough marital rape is now recognized in law, it is still a taboo subject" (Guinea 30 Oct. 2014, para. 56).

According to sources, domestic violence constitutes grounds for divorce under civil law (US 25 June 2015, 26; ABA Jan. 2012, 14).

### 3. Protection

#### 3.1 Police

*Country Reports 2014* states that in 2014, "police rarely intervened in domestic disputes or punished perpetrators" (US 25 June 2015, 26). The President of MDT stated that, [translation] "the few times [when] women have had the courage to file a complaint with the police, the police have often asked them to forsake that right" in favour of informal resolution with their spouse (MDT 28 Sept. 2015). The ABA report states that victims of gender-based violence have been met with officers who [ABA English version] "did not take them seriously or [tried] to convince them to withdraw their allegations" (ABA Jan. 2012, 31).

#### 3.2. Prosecution

The ABA report on access to justice for women in Guinea states that

[ABA English version]

Guinea's legal framework provides citizens with a number of mechanisms to solve justice problems. For criminal matters, such as domestic violence or harassment, it is the prerogative of the state to prosecute crimes, but victims can be joined as a civil party to the proceedings and obtain damages from a convicted perpetrator. If the state fails to properly investigate or prosecute a crime, a victim can also initiate a prosecution (*ibid.*, 1).

However, in an interview that appeared in *Flamme d'Afrique*, Alhassane Makanera, a consultant-jurist, states that the application of legislation in terms of violence against women [translation] "poses problems given the cultural constraints" (PIWA 28 Nov. 2014b, 6). Mr. Makanera notes that Guinean society has a poor perception of women who file a complaint against their husband, regardless of the reason, and that in many parts of the country, [translation] "customs are always upheld, especially with respect to women" (*ibid.*). Similarly, the President of MDT explained the cultural obstacles preventing women who are victims of domestic violence from invoking the law as follows:

[translation]

Local culture considers it unacceptable for a woman to file a complaint against her husband for violence. Despite everything, if the woman files the complaint, she is immediately ordered by her own family or by individuals who have a certain influence over her to renounce the complaint [and] resolve the matter informally.

In addition, men have difficulty accepting that their wives might file a complaint [against them] for domestic violence. In many cases, women who persist in using legal processes are essentially guaranteeing their divorce.

For this reason, in general, women who care about their marriage prefer to endure the violence while looking for informal ways of encouraging their husband to change their behaviour, instead of engaging the court system (MDT 28 Sept. 2015).

MASPFE states that [translation] "the existence of legislation is not sufficient to protect women/girls ... the overwhelming majority of whom do not receive equal access to the court system" (Guinea Feb. 2013, 17). Similarly, the UN Committee on the Elimination of Discrimination Against Women states that it is concerned at the persistent barriers to women's access to justice and their [UN English version] "low level of legal literacy" (UN 14 Nov. 2014, para. 20).

Moreover, the same source states that it is concerned about [UN English version] "...the limited number of investigations, prosecutions and convictions" with regards to acts of violence against women, including the

"persisting high" prevalence of domestic violence (ibid., para. 32). Statistics on the number of investigations into domestic violence and prosecutions launched against perpetrators or sentences given to those persecutors could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

#### 4. Support Services

The President of MDT stated that the Office for the Protection of Gender, Children and Morals (OPROGEM), a police unit created in December 2009 under the Guinean Ministry of Security and Civil Protection to help victims of domestic violence, [translation] "was trying its best to deal with the issues of domestic violence" (MDT 28 Sept. 2015). In a training guide on the integration of family planning and resources concerning domestic violence in Conakry, the American NGO EngenderHealth, which aims to improve reproductive health in 20 countries (EngenderHealth n.d.), states that OPROGEM provides legal services at all times (EngenderHealth 2014, 202). That same source states that the services provided by OPROGEM are

[translation]

free but [that] medical and legal expenses are paid for by the victim.

[...]

Victims come on their own [to OPROGEM] or are referred by partner organizations. The service may also refer victims to hospitals and go to court for criminal cases (ibid.).

Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The United Nations Development Program (UNDP) states that 689 women consulted OPROGEM in 2013, compared with 83 in 2012 (UN 2014, 52). However, according to that same source, "efforts are needed to ensure that [gender-based violence] cases reach the courts" (ibid.). Furthermore, the Committee on the Elimination of Discrimination Against Women states that it is concerned with the lack of human, financial and technical resources of the various components of the "national machinery for the advancement of women" of Guinea, to which OPROGEM belongs (ibid. 14 Nov. 2014, para. 22). According to the President of MDT, [translation] "[OPROGEM's] functioning is made difficult by sociocultural pressures and by the lack of true political will" (MDT 28 Sept. 2015). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The Committee on the Elimination of Discrimination Against Women notes the establishment of a centre providing legal support to women within the MASPFE, though does not state its role in terms of domestic violence (UN 14 Nov. 2014, para. 20). However, it states that it is concerned about the limited accessibility of that centre to women living outside Conakry (ibid.). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The President of MDT stated the following about the support provided by civil society organizations:

[translation]

At times, some NGOs like MDT and the Guinean Association of Social Assistants (Association guinéenne des assistantes sociales, AGUIAS) will provide psychological and judicial assistance to victims of domestic violence. However, the psychological care centres where women who are victims may stay while they are being cared for are desperately inadequate (MDT 28 Sept. 2015).

EngenderHealth provides the following information on the procedure to obtain services provided by AGUIAS:

Victims can [call] a hotline (116) that is available 24h/24 and 7 days a week; they may come themselves or be referred by partner organizations (2014, 203).

Similarly, the ABA states that AGUIAS [ABA English version] "also operates a safe house which offers victims shelter and helps them with social and economic reintegration" (ABA Jan. 2012, 30). MASPFE states that, among the 2,446 cases of violence handled by AGUIAS between 11 January and 31 December 2012, 111 girls and 16 women were admitted into AGUIAS's [translation] "safe house" (Guinea Feb. 2013, 910). Further information on the AGUIAS refuge could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Sources state that in 2015, the Guinean National Coalition for the Rights and Citizenship of Women (Coalition nationale de Guinée pour les droits et citoyenneté des femmes, CONAG-DCF) presented a legal and

judicial aid guide with respect to genderbased violence to enable victims to “realize their rights and duties” (AGP 23 May 2015; Guinea7 21 May 2015).

EngenderHealth states that CONAG-DCF provides [translation] “a helpline and legal assistance to victims of [domestic violence] with respect to file preparation, contacting jurisdictions [and] medical examinations,” and that it communicates with victims there so that they may obtain psychological support (EngenderHealth 2014, 202). According to the same source, the helpline and legal assistance are provided free of charge by CONAGDCF, but victims of domestic violence must pay the related costs for medical examinations and transportation as well as legal fees (ibid.).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

### Notes

[1] The Panos Institute West Africa (PIWA), founded in 2000 and based in Dakar, in Senegal, [PIWA English version] “is a non-governmental independent African organization supporting media and communication. It ... operates mainly in West Africa” (PIWA n.d.).

[2] These five organizations are the FIDH; the MDT; the Guinean Organization for the Defense of Human and Citizens’ Rights (Organisation guinéenne de défense des droits de l’homme et du citoyen, OGDH); the Association of Victims, Parents and Friends of the Events of 28 September 2009 (Association des victimes, parents et amis des événements du 28 septembre 2009, AVIPA) and the Coalition of Human Rights Defense Organizations (Coordination des organisations de défense des droits humains, CODDH) (FIDH *et al.* Oct. 2014).

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**Oral sources:** American Bar Association; AGUIAS; Coalition nationale de Guinée pour les droits et la citoyenneté des femmes; Femmes, droit et développement en Afrique; Guinea – Ministère de la Sécurité et de la Protection civile, Office de protection du genre, de l'enfance et des mœurs.

**Internet sites, including:** Afrik.com; Agence guinéenne de presse; AllAfrica; Aminata.com; Amnesty International; Aujourd'hui-en-Guinée.com; Coginta; Conakry.info; Council of Europe – European Court of Human Rights; ecoi.net; Factiva; Femmes de Guinée; Freedom House; Guinea – Ministère de la Justice, Institut national de la statistique, Portail officiel du gouvernement guinéen, Présidence de la République de Guinée; Hot Peach Pages; Human Rights Watch; Intact; IRIN; Kalenews; Kaloum Presse; KibanyiGuinée.Info; Minority Rights Group International; Norway – Landinfo; Organisation de coopération et de développement économiques; United Nations – Refworld, ReliefWeb, United Nations Population Fund, UN Women; VisionGuinée.Info; Women Living Under Muslim Laws.

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[Top of Page](#)

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