

Dominican Republic

1. Discrimination in the family

a) Overarching legal framework for marriage

Women in the Dominican Republic have the same rights as men to enter into marriage (Civil Code, Art 146). While there is no specific legal provision which specifically prohibits forced marriage, a marriage is considered as void if consent of both spouses were not given (Civil Code, Art 146).

Both civil and religious marriages (“canonical marriages”) are recognised by the state. Civil marriages are those in which the parties themselves register the marriage with the Dominican government. The person officiating at the wedding ceremony is a government official, usually a Notary Public. It is the couple’s choice whether or not to hold a separate religious ceremony. “Canonical” marriages are those performed by a Roman Catholic priest. Following the ceremony, the church takes responsibility for registering the marriage with the appropriate Dominican government offices (Ley 198-11 que regula los matrimonios religiosos y sus efectos en la República Dominicana).

The Constitution also recognises de facto unions and this creates rights and obligations for the couple. Art 55 provides that “the unique and stable union between a man and a woman who are free of any impediments to marriage and who form a de facto family creates rights and obligations concerning their personal relations and their property, in accordance with the law”.

b) Child marriage

The minimum age of marriage is 18 years for boys and 15 for girls. However, the judge can waive the 15-year old minimum age for girls (with parental consent) for “valid reasons” (Law 659-44, Art. 56). Furthermore, women and men cannot marry without a written parental consent before reaching 21 years old for women and 25 years old for men (Civil Code, Art 148). There is no specific provision in the law mentioning that child marriage is void. Child marriage usually happens outside of the law as “informal unions”, as civil or religious marriages are seen as costly and cumbersome, it is common for girls to move in to adult men’s homes and become their “wives”. These informal unions are not only more difficult to report, but they also leave girls vulnerable to abuse and with little legal protection against their husbands (Girls not Brides, 2017).

In May 2017, the Dominican Republic’s parliament decided to close the loophole in marriage law which allowed girls to be wed before the age of 18. The law change will now have to be approved by the country’s Senate (Plan International, 2017).

According to the NGO Girls not Brides, poverty is one of the principal drivers of child marriage in the Dominican Republic, where the wealthiest women marry about four years later than the poorest women. A lack of access to education also increases the risk of child marriage. 75% of women with primary education married before 18, compared to 28% of women with secondary education. There are also various social norms explaining early marriage: many girls grow up learning that marriage and

motherhood is a way of gaining respect in the society and see marriage as a form of emancipation and a way into adulthood (Girls not Brides, 2017).

In addition, evidence show that in many cases, early sexual activity, when combined with lack of sexual education or reproductive health services, leads to unwanted teenage pregnancies. 14% of girls in a 2017 study conducted by Girls Not Brides, had one or two pregnancies between the ages of 14 and 17. Many girls interviewed who had become pregnant had felt social and family pressure to marry (Girls Not Brides, 2017).

c) Household responsibilities

Women have the same rights as men to be recognized as the head of the household and wives are not required to obey their husbands. Changes made to the Constitution in 2010 recognised that raising a family is not the sole responsibility of women, but also of men. It also provides men and women with the same rights and responsibilities regarding their children as provided for in article 55: “The State promotes responsible paternity and maternity. The father and the mother, even after separation and divorce, have the shared and non-renounceable duty to feed, raise, train, educate, support, and provide safety and assistance to their sons and daughters.”

In practice, fathers’ figure is absent in the domestic realm. Traditional gender role division encourages this absence by assigning men the role of provider, belonging to the outside world and having a public presence, while women are left being solely responsible for domestic duties (Latin American Bureau, 2013).

d) Divorce

Women and men have the same right to initiate divorce. Paragraph III of the Divorce Act (Ley 1306-BIS, 21 de mayo de 1937) specifically states that “a woman shall need no authorization to file for divorce.” Art 55 of the Constitution also stipulates that, even after separation or divorce, the father and the mother, have the “shared and non-renounceable duty to feed, raise, train, educate, support, and provide safety and assistance to their sons and daughters.” In addition, the Divorce Act, paragraph II provides both parents with the same rights with regards to their children and mentions that “regardless of who is entrusted with custody of the children, both parents remain entitled to see their children and are obligated to contribute to their education in proportion to their financial resources”.

However, divorce suits’ provisional measures are discriminatory as it does not provide women with the same rights as men with regards to their children. Article 21 of the Divorce Act provides that the provisional administration of the children is automatically assigned to the husband, unless the Court orders otherwise, in the children’s best interests. Another discriminatory article (but recently repealed in 2015 by the Constitutional Tribunal) was article 35 of the Divorce Law. It established that a Dominican woman needed to wait ten months after her divorce to get remarried. This provision came from the French Napoleonic Code of 1804, a time when pregnancy tests did not exist and therefore confusion could result regarding the paternity of any child born soon after the new marriage. The Constitutional Tribunal considered that this article was not in line with the equality provision of the Constitution. Roman Catholicism is the main religion on the island. In addition, marriages sanctioned

by the Church can only be rendered invalid if the Church grants an annulment (Meery, n.d.), a lengthy process that can take up to a year and hinders one's ability to get a divorce.

e) Inheritance

Daughters and female surviving spouses have the same rights as male ones to inherit land and non-land assets (Civil Code, Arts 745 & 767). In the Dominican Republic there is a forced heirship regime (*reserva hereditaria*) and the forced estate is divided into shares which include the child's share: 50% if there is only one child, 33% if there are two children and 25% if there are three or more children. If there are no direct blood-related descendants, the surviving spouse is entitled to 50% of the estate and the Civil Code allows disposing of all the estate to the surviving spouse, in the event of no descendants (Suero et al. 2016). Therefore, even though disinheritance of the surviving spouse is not prohibited by law, the forced heirship regime does provide a minimum protection to the surviving spouse and to the descendants as well.

Women also have equal rights to execute or administer a will (Civil Code, Art 724). There is no evidence of customary, religious, or traditional practices or laws that discriminate against daughters and female surviving spouses.

2. Restricted Physical integrity

a) Violence against women

The Dominican State has undertaken different steps to prevent combat and eradicate violence against women through the ratification in 1996 of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará). Under the new Constitution of the Dominican Republic, international treaties have acquired constitutional status, which reinforced the commitment to implement those instruments. In addition, a specific provision in the Constitution mentions the right to a life free of violence. Article 42, paragraph 2 states that "all forms of domestic and gender-based violence are prohibited, the State shall take all appropriate legislative measures to prevent, punish and eradicate violence against women". There are also two specialised procedural laws on the subject, such as Act 24-97, on violence against women and domestic violence, and Act 88-03 which provides for safe houses and shelters.

In addition to the Constitution and the above-mentioned laws, the National Gender Equality and Equity Plan 2007-2017 (PLANEG II, Chapter 6) has a dedicated chapter on the eradication of all forms of violence against women through every stage of their lives. The plan outlines programs to be conducted (along with a dedicated system to follow up and monitor its execution) to continue the work of reducing violence against women and deconstructing stereotypes encouraging it. Along these lines, the Ministry of Women has launched a national campaign "You can: Unite Now to End Violence against Women" to raise awareness and the "Men promise: fewer every day until we reach zero" public awareness campaign for men, with the end goal of halving the country's rate of Femicide (UN Women, n.d.)

Nonetheless, high levels of violence against women persist in the Dominican Republic. Despite the normative and institutional network efforts made by the government, data from the National Statistics

Office (ONE) indicate that violence has increased in the country, as it has in the rest of the region (CEDAW, 2011). According to the local NGO *Colectiva Mujer y Salud*, many of the reforms exist only on paper and legislation introduced has proved ineffectual due to the lack of necessary budget allocations in each institution (Latin American Bureau, 2013).

Research and historical facts support the conclusions that the high level of domestic violence is a serious societal issue in the Dominican Republic and that violence against women and girls is a major expression of power and control within the family and society. This situation is mainly a consequence of women's economic dependence on men, which forces some women to stay in potentially dangerous situations, mixed with cultural norms regarding the treatment of women (Council of Hemispheric Affairs, 2014).

b) Domestic violence

Article 42 of the Constitution condemns domestic and gender violence "in all its forms". Law No. 24-97 defines domestic or family violence as "any pattern of conduct using physical force or psychological violence, verbal intimidation or persecution against any person maintaining a relationship of coexistence, against a spouse, former spouse, live-in partner or ex-partner or consensual partner, or against the person with whom a son or daughter has been procreated, to cause physical or psychological harm to the person or damage to their property, whether by the father, mother, guardian, caregiver, spouse, former spouse, partner, ex-partner or consensual partner or person under whose authority, protection or care the family is living". However, the definition does not address economic violence. In addition, the Criminal Code punishes domestic violence with a sentence of imprisonment for a term of at least one year and at most five years, and a fine of DOP 500 - 5 000 (Dominican Republic Peso) and the restitution of property destroyed, damaged and hidden, if applicable.

Domestic violence incidents can be reported at district attorney's offices (*fiscalías*) or to the police. The Attorney General's Office oversees specialized units that provide assistance to victims of domestic violence. Victims of domestic violence can file a complaint in these offices and obtain free legal, psychological and medical assistance (*Protocolo de aplicación de las normas contra la violencia intrafamiliar*). In an additional step to address the problem, the Attorney General's Office instructed its officers not to settle cases of violence against women and to continue judicial processes, even in cases in which victims withdrew charges. The Attorney General's Office also instructed its officers to conclude the investigation and presentation of charges within 35 days unless the case was considered complex. These offices also have the authority to issue temporary restraining orders immediately after receiving complaints and serve as messengers for the victims, which prevents contact between the victim and the abuser (US Department of State, 2014). However, those units are primarily stationed in urban areas and receive little financial help from the government (UNHCR, 2015).

Act 88-03 implements safe houses and shelters for victims of domestic violence and other violence against women on the national territory. There remains concern, however, of local NGOs deploring a lack of care centres for victims and no assistance programmes for the children who are orphaned every year due to femicides (Human Rights Brief, 2014).

The legal framework is complemented by an active coordination between state entities: the Ministry of Women's Department for the Prevention of Violence (Departamento de Prevención a la Violencia) coordinates the National Commission on the Prevention and Struggle against Domestic Violence (CONAPLUVI), which includes 14 public institutions and civil society organizations responsible for providing assistance to victims of domestic violence, and oversees the assistance process (UNHCR, 2015). In addition, the national strategic plan of the Ministry of Women's rights (2015-2020) tackles the issue of domestic violence and established specific targets to meet by 2020. Part of the government's commitment to eradicate domestic violence also included the establishment of a 24-hour hotline for women at risk (UN Women, n.d.).

Despite the progress made on legislations condemning domestic violence, evidence points to the fact that domestic violence persists at high and increasing rates. Part of the problem is that the agencies designated to help women are often unequipped and underfunded. Also, there is still a social stigma attached to domestic violence and sometimes agencies "do not take domestic violence seriously". Indeed, it was reported that the police and the judges who are in charge of dealing with cases of domestic violence- even female judges, have cultural prejudices and myths around it (Davinder-Kumar, 2012).

c) Rape

Rape is defined as 'any act of sexual penetration, of any nature whatsoever, committed against another person by violence, constraint, threat or surprise' (Criminal Code, Article 331). The law provides penalties for rape of from 10 to 15 years in prison (or 10 to 20 years in case of rape of a vulnerable person, a child, or if occurred under other egregious circumstances) and a fine of 100 000 - 200 000 DOP. The state may prosecute a suspect for rape even if the victim does not file charges, and rape victims may press charges against spouses (Criminal Code, Article 332). There are also approved procedure for professionals who may deal with rape cases, such as police forces, the judicial investigation system, or sanitary and social workers (Protocolo de aplicación de las normas contra la violencia intrafamiliar, Ley No. 24-97).

The Attorney General's Office reported that on average 6 000 women were victims of sexual assault each year. The Attorney General's Office reported it had received more than 500 000 complaints of gender-based or sexual violence, with complaints increasing approximately 33% annually and the caseload far exceeded prosecutorial capacity, such that only a small fraction of these complaints went to court (US Department of State, 2014). In 2014, several Civil Society Groups signed a petition to express their concerns about the situation in the country and cited sexual violence as the most blatant form of violence against women on the island (Human Rights Brief, 2014).

Evidence show that victims often did not report cases of rape because of fear of social stigma, as well as the perception that the police and the judiciary would fail to provide redress. It was also reported that police were reluctant to handle rape cases (US Department of State, 2014).

d) Sexual harassment

The Criminal Code defines sexual harassment as the abusive use of authority to "harass a person through orders, threats, coercion or any other means, in order to obtain sexual favours". Sexual

harassment is a misdemeanour and carries a possible penalty of one year in prison and a fine of up to 10 000 pesos. There are no explicit references to spaces where sexual harassment is barred (e.g. public spaces, sports facilities etc.). In practice, the majority of the women victims of sexual harassment do not pursue their claim before the criminal court and prefer to claim for compensation. Due to this situation, the cases regarding sexual harassment before Criminal Courts are almost inexistent.

The Women's Rights Ministry in its Gender Strategic Plan ("Estratégico de Género"), implements the dissemination of campaigns and radial spots on non-gender discrimination regarding employment among other causes. Beyond these actions, according to ILO, "the limitation of resources and trained personnel" in relation to women rights in the working place "continues to be a challenge" for the Ministry (CLADEM, 2010).

In addition, union leaders reported that the law was not enforced, and sexual harassment remained a problem (US Department of State, 2014). The CEDAW Committee also observed with concern the sexual harassment of women in the workplace and the absence of effective remedies for victims (CEDAW, 2013). In 2014, petitioners from local NGOs further asked the State to revise their labour code to meet International Labour Organisation's standards that deem sexual harassment in the workplace as grounds for dismissal. Aside from that, petitioners also suggested that workplace violations are significantly underreported out of fear of losing job and not knowing where to turn (Human Rights Brief, 2014).

e) Female genital mutilation

There is no known practice of female genital mutilation (FGM) in the Dominican Republic.

f) Abortion

Abortion is a crime punishable with imprisonment from two to three years under Article 37 of the Constitution. Attempted abortion which causes an injury or illness that severely harms the foetus, modifies its normal development or causes it severe physic defect or psychic one is sanctioned. The punishment worsens for doctors and health professionals, from four to ten years and in the case of death of the woman, from ten to twenty years of imprisonment (Women on Waves, 2014).

In 2014, Congress approved a new version of the Criminal Code, after many years of debate. The reform maintained the criminalization of abortion while providing for one restrictive exception, whereby abortion would be decriminalized where the pregnancy posed a risk to the life of a pregnant woman or girl but only after "all attempts had been made to save both the lives of the woman and the foetus".

Women's rights groups raised concerns that the exception would make it impossible in practice for women and girls whose lives were at risk to access abortion services (Amnesty International, 2017). Moreover, in reality, women are sometimes still being denied the right to an abortion, even in life threatening circumstances. The criminalisation of abortion particularly affects young women, poor and living in vulnerable conditions (Colectiva Mujer y Salud, 2013). Social norms and established gender roles in the Dominican Republic support the general acceptance of the ban on abortion. Indeed, there is a common rejection of all contraceptives in the nation. Evidence shows that

contraceptive use within stable relationships is considered offensive and many Dominicans have negative views towards it. In contrast, there is a high regard for motherhood and positive attitudes towards having children in the Dominican Republic (Sharly Larios, 2016).

3. Restricted Access to productive and financial resources

a) Secure access to land and assets

The law provides for the same rights to women, regardless of marital status, over the ownership, use, decision-making power, and use as collateral over land and non-land assets (Constitution, Art 51,). The default marital property regime is partial community property and both spouses administer jointly held property under the law (Civil Code, Arts 1400-1421).

In 1998, the Dominican Republic adopted mandatory joint titling for both married couples and those in consensual unions. In addition, the Dominican government has instituted a number of reforms, including the development of a cadastre with digitized property titles and the establishment and expansion of 23 land registry offices across the country. In 2012, the government created the State Lands Titling Commission, which, working with the Dominican Agrarian Institute, is intended to achieve the titling of around 150 000 urban and rural properties. However, formalisation of land rights has been hampered by a history of political changes and limitations in the capacity and performance of government agencies. In addition, programmes requiring joint titling of married couples and partners have done little to increase the percentage of women holding registered titles (USAID, 2013).

b) Secure access to formal financial resources

Married and unmarried women have the same rights as men to open a bank account at a formal institution. They similarly have equal rights as men to obtain credit.

Created by Decree No. 238-97, the National Council for the Promotion and Support of Micro, Small and Medium Enterprises (PROMIPYME) is a public policy aimed at promoting men's and women's entrepreneurial initiatives by providing them with loans and technical and managerial advisory assistance. The Ministry of Women has signed a working agreement with this entity in order to encourage positive support for women's initiatives by ensuring that they have access to credit programs on an equal footing with men, and in order to reduce poverty (CEDAW, 2011).

c) Workplace rights

The Dominican Republic has ratified ILO Conventions 100, 111, 183 and 189 but not 156.

Article 8 provides that female workers have the same rights as male workers. The law also mandates non-discrimination on the basis of sex in employment (Labour Code, Art 7). However, the provision does not specifically cover job advertisements, selection criteria, recruitment, hiring, terms and conditions, promotions, training, assignments and termination. And there is no provision in the law mandating equal remuneration for work of equal value.

Women can work the same night hours as men and they do not need permission from their husband or legal guardian to either choose a profession or register a business. Following a legal reform in 2017, Dominican law now mandates paid maternity leave of 14 weeks (Res. No 211, Art 4), while paternity

leave allows two days off paid by the employer (Labour Code, Art 54). However, there is no paid parental leave in the Dominican Republic. The law protects women's employment security while they are on maternity leave (Labour Code, Article 237), but there are no restrictions on employers asking about family status during interviews or hiring processes.

Women are increasingly using their jobs to provide for their families, effectively taking over the role of breadwinner that is traditionally reserved for men. In addition, the reduction in labour opportunities for men is redefining gender roles and gendered work, as men integrate into traditionally female forms of labour, such as making clothing. However, this is far from an ideal situation, as many cultural biases still remain. Older men often resent the newfound independence of the women working in these areas (Council on Hemispheric Affairs, 2015).

Despite a reduction in gender gaps in education, women are significantly underrepresented in the job market. Just 50% of women participate in the workforce, compared to 80% of men (Council on Hemispheric Affairs, 2015). The gender wage gap is 44% in the Dominican Republic, leaving many women without economic agency and in the hands of men, which oftentimes comes with violent consequences (Council on Hemispheric Affairs, 2015).

4. Restricted Civil liberties

a) Citizenship rights

Married and unmarried women have the same rights as men to acquire, change, retain their nationality, as well as confer their nationality to their children (Constitution, Article 18). Married women also have equal rights as married men to confer nationality to their foreign spouse.

Married and unmarried women have equal rights as men to register the birth of their children (Civil Code, Article 55). In addition, with the promulgation of Act No. 218-07 de Amnistía de Declaración Tardía de Nacimiento, it is now possible to declare children until the age of 12 years old. This measure was implemented due to the difficulties that women were facing in obtaining birth certificates for their children, which are necessary for exercising many rights (CEDAW, 2013). Over the past years, the Dominican government has re-written its Constitution and eliminated birth right citizenship. Nowadays, a child born in the Dominican Republic is no longer automatically a citizen; citizenship goes only to those who can prove they have at least one documented parent. Currently, hundreds of thousands of people, mostly of Haitian descent, are finding it difficult to get access to their birth certificates. In order to promote and facilitate the registration of births and the obtaining's process of documentation, a program was created through Decree No. 536-2005, called "Dominicanos/as con Nombre y Apellido"/ "Dominicans with Surname and Name" (CEDAW, 2011).

Married and unmarried women have equal rights as men to apply for identity cards and passports (Art 7, *Ley No. 8-92 sobre Cédula de Identidad y Electoral and Ley No. 208 de 1971*). The law does not discriminate against women with respect to the passports and other travel documents of minor children and both unmarried and married women have the same rights as men to travel outside the country.

b) Voting

Women received the right to vote and stand for election since 1942, following a constitutional amendment.

c) Political voice

Women have equal rights as men to hold public and political office in the legislature, executive and judiciary. The government has also adopted various provisions in order to improve gender balance in politics. The laws mandate a minimum quota for the political representation of women continue in force: Act 275-97, art 68 established that a minimum of 33% of candidates for office on provincial and municipal councils should be women; Act 13-2000, provides that, if a party nominee on a municipal ballot for mayor or trustee is a man, a woman should be on the ballot as deputy mayor or trustee, and vice versa.

Since 2002, the Secretaría del Estado de la Mujer organises the training programme 'Escuela de Capacitación Política para las Mujeres' targetting women who hold or seek elected positions at any level of government, as well as women in decision-making positions in the government, political parties and civil society. The six-month programme, which moves from one university to another around the country is focused on leadership, and the conceptual and practical understanding of the social, political, and economic development of the country and the requirements of the socio-political context. The role of gender relations and the importance of a commitment to democracy and gender equality are integrated throughout the course (USAID, 2009).

Despite these efforts, most political posts are held by men in the Dominican Republic. While women are active in political parties on a par with men, they rarely hold positions of power. The lack of accountability or sanctions attached to the quota law has meant that despite some increase in the proportion of women in political office the minimum aspirations reflected in the law have not been achieved (USAID, 2015). Though there are women working with the political system at large, the presence of women is minor. Even when women are elected to political office, they struggle to find their niches as their merits are constantly challenged by their male counterparts (Council on Hemispheric Affairs, 2015). In addition, a recent survey conducted by USAID of political attitudes shows a decline or stagnation in the acceptance of the idea of women serving in political office (USAID, 2015).

d) Access to justice

Married and unmarried women have the same capacity as men to sue and to be sued. Married and unmarried women's testimony also carries the same evidentiary weight as a man's in civil, criminal, family court and tribunals.

There are several governmental entities monitoring gender equality: the Ministry of Women monitors compliance with the Dominican State's international commitments with respect to the rights of women, whereas the Office of the Deputy Attorney General for Women (created in 2007) is in charge of directing and monitoring the processes of criminal investigations and prosecutions that relate to violence against women and any other matter that affects women's rights and their free access to justice (CEDAW, 2011). Indeed, women's access to justice is an issue in the country and the CEDAW

Committee expressed concern on the existence of barriers to it, such as legal costs, the limitation of legal aid to criminal procedures and the lack of programs for the protection of women victims and witnesses. The Statistics Unit in the Office of the Attorney General of the Republic is also in charge of maintaining a current database on femicide and violence against women detected by the system at the national level (CEDAW, 2013).

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