COSTA RICA

1. Discriminatory family code

The minimum legal age of marriage is 18 years for both men and women in heterosexual relationships. However, with parental consent, men and women can marry at the age of 15.¹

Costa Rica was one of the first countries in the world to pass legislation, in 1973, granting parental authority to both spouses through Articles 143 and 151 of the Family Code.² Although Articles 2 and 34 set out equal rights and responsibilities between spouses regarding childcare and housekeeping duties, under Article 35, men are required to bear the principle expense of the family (i.e. be head of household).³ This translates into practice as well, with decisions within the marriage reportedly less than equitable and, according to the latest Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) report, “[t]he tradition that the men take the economic decisions for the household prevail[ing].”⁴

The Family Code also provides for equality in divorce (Articles 41 and 62). Nevertheless, in the vast majority of divorce cases, custody of the children is awarded to the mother; the 2010 CEDAW report notes that in many cases, divorced or separated fathers fail to pay child maintenance or do not pay enough for the family to live adequately.⁵ In 2005, the Responsible Parenting Act was passed to attempt to address this issue by promoting shared child-raising responsibilities and requiring paternity testing.⁶ And, in 2006, the Ministry of Public Security developed the Protocol for Police Action regarding Alimony and Child Support Payments in order to ensure higher rates of compliance.⁷

Under the Civil Code, women and men have equal inheritance rights upon the death of the spouse, providing that the marriage was legal; this applies to a common law marriage which is recognised under law after two people of the opposite sex have lived together for over three years.⁸ As of the last report

² CEDAW (2001), p. 47
³ FAO (n.d.)
⁴ CEDAW (2010), p. 199
⁵ CEDAW (2010), p. 197
⁶ CEDAW (2010), p. 193
⁷ CEDAW (2010), p. 198
to CEDAW, women in same-sex relationships were not recognised under Costa Rican law and thus did not have equal inheritance rights. However, a law passed in Costa Rica in August 2013 – the “Law of Young People” – could legalise same-sex marriage, with potential effects on inheritance rights for same-sex couples.

Sons and daughters have equal inheritance rights, provided that, if born out of wedlock, the child was acknowledged as an heir.

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According to the Family Code, both spouses can initiate divorce. In Costa Rica, women with the right to marry are often discriminated against economically in the wake of divorce or separation. This can take the form of the destruction of goods or property by the male partner, or property divestiture, which women are sometimes "obliged ... to accept ... in order to escape from an abusive relationship." As of the country’s last report to CEDAW, legislation was pending which sought to strengthen the Family Property Code in order to protect women’s rights in these situations.

2. Restricted physical integrity

In an effort to reduce violence against women, in 1996 the government passed a law specifically addressing domestic violence. Legal protection for women against violence was further strengthened by the 2007 Criminalisation of Violence against Women Act, which includes acts of violence that were previously not covered by the Domestic Violence Act or by the Penal Code. These include restriction of freedom of movement, emotional violence, abusive sexual conduct, sexual exploitation of a woman, aggravated forms of sexual violence, defrauding a woman of community property, misappropriation of earnings from family economic activities and economic exploitation of a woman. The law also distinguishes between femicide and aggravated homicide and provides a term of 20-35 years for a person who kills his/her spouse or partner. As elaborated in the country’s latest report to CEDAW: “the difference between femicide and aggravated homicide is that, in the case of femicide, the ... circumstance is that of having killed a woman with whom the person in question had maintained a marital relationship or a de facto union, whether publicly acknowledged or not, regardless of how long that relationship lasted or whether or not they have had one or more children.”

The implementation of legislation on violence against women is overseen by the National Institute for Women (INAMU), which has a specific budget line for domestic violence prevention and treatment.

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10 Walker, Tim (2013)
11 FAO (n.d.)
12 Article 48
13 CEDAW (2010), p. 200
14 Law No. 7586, the Domestic Violence Act in CEDAW (2003), p. 26
15 Criminalisation of Violence Against Women Act (No. 8589/2007) and the amendment to it (Act No. 8929/2011); CEDAW (2011), p. 2; see also CEDAW (2010), p. 59
16 CEDAW (2010), p. 59
programmes. In 2006, INAMU undertook a public education campaign on non-violence and other human rights issues that included radio and television appearances by women’s human rights experts.\footnote{CEDAW (2010), p. 85}

It is unclear how the law is implemented in practice; however, according to the country’s latest report to CEDAW, “the judiciary has increasingly handed down judgements based on interpretations that refer to national and international standards and laws for the protection of rights, especially in the areas of family rights, gender violence, sexual offences and the political rights of women.”\footnote{CEDAW (2010), p. 49}

Although rape had been previously criminalised in Costa Rica, the 2007 Criminalisation of Violence against Women Act strengthens the law in several regards. For example, the act considers impregnation during rape, as well as sexual assault in the context of an intimate partnership (whether de facto or legal marriage), as aggravating circumstances.\footnote{CEDAW (2010), p. 59} Spousal rape is also criminalised, although it is often difficult to prove in practice.\footnote{http://m.state.gov/md220432.htm}

On 13 August 2013, the judicial branch and the social security system signed an agreement to improve the process of collecting physical evidence in cases of rape, so that victims receive immediate attention. Four locations in the country, besides the judicial forensic clinic, had rape kits to collect and analyse physical evidence for use in prosecutions.\footnote{http://www.state.gov/documents/organization/220644.pdf}

The Sexual Harassment in the Workplace and Schools Act\footnote{Law No. 7476} (1995) prohibits sexual harassment in the workplace and in educational institutions, with a variety of administrative and criminal penalties depending on the nature of the offence. Under the law, “private companies and public institutions must include preventive policies and procedures for handling these types of complaints in their regulations.”\footnote{CEDAW (2010), p. 43} Nevertheless, in its Concluding Observations on Costa Rica, the CEDAW Committee noted its concern at the large number of sexual harassment cases that are dismissed or not pursued because the victim decides not to press charges.\footnote{CEDAW (2011)}

Staff of the Technical Secretariat of the Judiciary for Gender Issues have been trained in sexual harassment law and procedure. And, according to the country’s last report to CEDAW, between 2001 and 2006 the Gender Equity Unit of the Ministry of Labour and Social Security carried out 145 training courses and workshops and mass media campaigns regarding sexual harassment.\footnote{CEDAW (2010), pp. 49, 44}

There is no evidence that female genital mutilation is practised in Costa Rica.

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According to the shadow report to CEDAW by the International Gay and Lesbian Human Rights Commission, violence against lesbians, bisexual, transgender and intersex women is “both
omnipresent" and "utterly neglected" in Costa Rican public policy. The violence includes denial of access to public services, especially health services, arbitrary detention by the police, sexual abuse by police, medical procedures without informed consent (in the case of intersex children), and denial of full recognition under the law (in the case of transgender women).

Under Article 21 of the Penal Code, passed in 1971, abortion is not punishable if the life or health of the woman is in danger. Despite its legality, according to the latest NGO report to CEDAW and concluding observations of the CEDAW Committee, women’s right to obtain a legal abortion for health purposes is often curtailed in Costa Rica.

3. Son bias

The male-to-female sex ratio at birth in 2013 is 1.05 and for the working age population (15-64 years old) 1.01.

There is no evidence to suggest that Costa Rica is a country of concern in relation to missing women.

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The ratio of girls to boys in primary school enrolment was 99.2% in 2012. For 2012, there is virtually no gender gap in primary school enrolment and a slight gender gap benefiting girls in secondary education.

4. Restricted resources and assets

Costa Rican women have rights to property ownership, and the law does not discriminate against women in regard to access to land. Land and housing are considered family property with equal rights for the couple.

Law 7142/90 (Law on the Promotion of Equality of Women) includes an article requiring joint titling for married women, in recognition of their right to co-ownership of land. In the case of de facto unions, properties are registered on behalf of women, and in any other case on behalf of the beneficiary, male or female. According to data gathered by the FAO, cultural practices and traditions about the sexual division of labour influence access to land in practice, as does the lack of information about women’s rights in this regard.

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26 IGLHRC (2011)  
27 IGLHRC (2011)  
28 CEDAW Joint NGO Report (2011)  
29 UN DESA (2013)  
30 CEDAW (2011); CEDAW Joint NGO Report (2011)  
33 FAO (n.d.)  
34 FAO (n.d.)  
35 FAO (n.d.)
Although they have equal standing to non-land assets under law, according to the most recent report to CEDAW, “[t]he denial of access to ownership of basic goods is one of the main forms of financial or economic violence to which women are subject” in Costa Rica.\(^ {36} \) According to the report, women are more vulnerable to economic risk than men with regard to ownership of their homes and transportation needs. Further, according to the National Security Survey of Costa Rica in 2004, more male respondents (27.9%) owned their homes than female respondents (23.5%), and more women responded that their house was solely in the name of their spouse (28.5% versus 16.9%).\(^ {37} \)

Concerning **access to financial services**, women in Costa Rica are able to sign contracts and open bank accounts in the same way as men.\(^ {38} \) However, as of 2011, 60% of men had accounts at formal financial institutions, while only 40% of women did.\(^ {39} \) Further, only 7.8% of women received loans from a financial institution in the past year, while 12.2% of men did.\(^ {40} \)

Although, in the past, it has been difficult for women – especially those living in rural areas – to access credit,\(^ {41} \) in 2011 women made up a significant portion (40.82%) of borrowers of microfinance institutions in Costa Rica.\(^ {42} \)

### 5. Restricted civil liberties

The Constitution guarantees freedom of movement and **access to public space**, and restriction of freedom of movement is covered under the 2007 Criminalisation of Violence against Women Act.\(^ {43} \)

Women do not need male permission to leave the home and are free to choose where they live.

In the area of **political voice**, women and men appear to have the same right to vote and stand for election. However, as the 2010 report to the CEDAW Committee notes, women wishing to stand for election continue to face considerable hurdles, including resistance from political parties to fielding female candidates.\(^ {44} \)

In 2009, Electoral Law 8765 was passed, requiring gender parity in election nominations at the national and sub-national levels.\(^ {45} \) Several of the main political parties in Costa Rica, including the National Liberation Party, the Christian Social Unity Party, the Citizen Action Party, and the Libertarian Movement Party also have voluntary **quotas**.\(^ {46} \)

\(^ {36} \) CEDAW (2010), p. 199  
\(^ {37} \) CEDAW (2010), p. 199  
\(^ {38} \) World Bank (2013b)  
\(^ {39} \) World Bank (2013a)  
\(^ {40} \) World Bank (2013a)  
\(^ {41} \) CEDAW (2010), p. 200  
\(^ {42} \) Microfinance Information Exchange (2013)  
\(^ {43} \) Criminalisation of Violence Against Women Act (No. 8589/2007); CEDAW (2010), p. 59  
\(^ {44} \) CEDAW (2010), pp. 92-93  
\(^ {45} \) The Quota Project (2013)  
\(^ {46} \) The Quota Project (2013)
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According to a recent study published by the International Women’s Media Foundation, men outnumbered women 2:1 in Costa Rican media.47

The Labour Code includes several provisions that protect women in the workplace. Law 8107/01 introduced the prohibition of discrimination. Article 618 prohibits discriminatory treatment in employment on the basis of age, ethnicity, gender or religion. Article 619 includes provisions on equal work, equal rights, and equal pay without discrimination by gender. Section 620 includes the prohibition of dismissal due to gender.48

Maternity leave is also covered by the Labour Code and is universal (i.e. all women in the private and public sector are covered). The length of maternity leave is four months total (one month prior to delivery and three months after) and covered through a Social Security Fund. The amount of coverage is tiered depending on the length of time the mother has contributed to the Social Security Fund: 100% of the salary for 9 or more months of contribution, 75% for 6-9 months, and 50% for 3-6 months.49

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47 IWMF (2011)
48 FAO (n.d.)
49 ILO (2011)
Sources


World Bank (2013a) Global Financial Inclusion Database [database].