DOMINICAN REPUBLIC

Article 39 of the Constitution establishes that all men and women are equal and cannot be discriminated against on the basis of gender, as well as other categories such as, skin colour, age, disability, nationality, family relations, language, religion, political ideology, and social or personal condition.

1. Discriminatory family code

The actual minimum age for marriage in the Dominican Republic is not clear. While the United Nations Statistics Division indicates that for men and women it is 18, and 16 with parental consent, the Civil Code of the Dominican Republic establishes the legal age for men at 18 and for women at 15.

Moreover, according to the Junta Central Electoral (Central Electoral Board), the minimum age is 18, without consent, and 16 for men and 15 for women, with parental and judicial consent. Although de facto marriages are not typified in the Civil Code, in October 2001 the Supreme Court ruled that these unions must be recognised and protected by the State. Both religious and civil marriages are recognised by the State.

The 2014 Bill for the New Family Code, currently under debate in Congress, includes an innovative provision that would allow for men to take their wives’ surname, as women have traditionally done in the past. Moreover, this bill seeks to set the legal age for marriage at 18 for men and women, and 16 with consent from the parents. In order to get married, adolescents aged 14 and 15, in addition to parental consent, require a special certification, provided only in special cases, by the Tribunal de Familia, Niñez y Adolescencia (Court for the Family, Childhood and Adolescence). This Bill explicitly bans same-sex couples from getting legally married. It would recognise de facto unions for heterosexual couples cohabitating for more than two years, establishing their rights and duties.

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2 Article 144
4 Supreme Court (2001)
5 Article 27
6 Article 28
7 Article 30.5
8 Articles 176-229
There is evidence that early marriage is a persistent issue in the Dominican Republic. According to 2012 data from the Oficina Nacional de Estadística (Office for National Statistics), around 37% of women aged 20-49 were married, or in a de facto union, before reaching the age of 18. For 2009-2010 the percentage was 42.7%. The same report clarifies that women in impoverished situations try to find economic safety by marrying older men at a young age and by adopting the traditional role of the stay-at-home mother, which is highly valued in the lower classes.9 Recent data from 2013 reveals that 41% of women between the ages of 20 and 24 were married or in union before they were 18 years old, ranking the Dominican Republic 18th country in the world, within the 20th highest-prevalence countries.10

In the area of parental authority, Law 24 (1997), which stipulated the rights and duties between men and women in marriage,11 was strengthened by the new Constitution of the Dominican Republic, enacted in 2010. The Constitution recognises that domestic work and caring for children are not the sole responsibility of women, but also of men.12 Under the Constitution, in marriage “women and men have equal rights and obligations and owe each other mutual understanding and respect.”13 It also stipulates that, even after separation or divorce, “the father and mother ... shall have the shared and unavoidable duty to feed, raise, train, educate, support, protect and assist their sons and daughters.”14

The 2014 Bill for the New Family Code seeks to establish equality of rights and duties between spouses, regardless of “colour, sex, gender, race, origin, language, nationality, religion, age, disability, political or philosophical opinion, family ties, social or personal status, economic status”, but neglects to protect citizens from discrimination based on their sexual orientation.15

There are no signs of discrimination against women in the Civil Code,16 which determines inheritance rights for spouses. Furthermore, it specifically stipulates that children have equal inheritance rights, regardless of their gender.17 Under recent changes to the Constitution, all children are guaranteed the same rights of protection under the law, regardless of their parents’ marital status.18 The 2014 Bill for the New Family Code also establishes equal inheritance rights for sons and daughters.19

Both spouses have the right to initiate divorce under Law 1306-Bis, enacted in 1937 and modified in 1954.20 According to the 2014 Bill for the New Family Code, either the mother or the father can be

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9 Oficina Nacional de Estadística (2012)
10 UNICEF (2013)
11 Article 357-3
12 CEDAW (2011), pp. 40 - 41
14 CEDAW (2011), p. 41
15 Principle IV and Articles 18 and 42 of the 2014 Family Code Bill
16 Articles 723 and 767
17 Article 745
18 Constitution of 2012, Article 55, Section 9; CEDAW (2011), p. 41
19 Principle IX of the 2014 Family Code Bill
granted sole custody of the children, with visitation rights and child support duties for the other spouse.\textsuperscript{21}

\section*{2. Restricted physical integrity}

In the Dominican Republic, violence against women is addressed through two major laws: Law 24-97, on violence against women and \textbf{domestic violence}, and Law 88-03, which provides for safe houses and shelters. The State is also party to the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of \textit{Belém do Pará}).\textsuperscript{22} In addition, the 2010 Constitution provides that: “Domestic and gender-based violence in any form is prohibited. The State shall guarantee by law the adoption of the necessary steps to prevent, punish and eradicate violence against women.”\textsuperscript{23} The 2014 Bill for the New Family Code also establishes that families have the right to a life free of violence.\textsuperscript{24}

Domestic violence policy and legislation is overseen by the Ministry of Women, and violence against women is included in topic six of the country’s 2007-2017 National Gender Equality Plan, its ten-year Health Plan (2006-2015) and the National Strategy to Address the Link between HIV and AIDS.\textsuperscript{25} Special units have also been set up under the Office of the Attorney General for the reporting and prosecution of violence against women crimes, as well as the collection of statistics. In addition, the Ministry of Women, together with the Supreme Court of Justice, have established training workshops for judges. In 2012, the Ministry of Women also set up a hotline for victims of violence.\textsuperscript{26}

At the time of writing, legislation regarding violence against women was pending: a draft of the “Organic Law for Prevention, Treatment, Punishment and Eradication of Violence against Women” was being considered in Congress. The law, which provides a comprehensive plan to address victims of violence, including the recognition of “battered wives syndrome” and femicide,\textsuperscript{27} has been criticised by civil society organisations for its failure to include reproductive rights.\textsuperscript{28}

According to 2013 data from the \textit{Oficina Nacional de Estadística} (Office for National Statistics), there were 66 cases of domestic violence in which the final outcome was the death of the wife in 2009, 83 in 2010, 81 in 2011 and 60 in 2012.\textsuperscript{29}

The Penal Code, amended by Act No. 24 in 1997, criminalises \textbf{sexual assault} and makes it punishable by 10 to 15 years’ imprisonment.\textsuperscript{30} The punishment is longer (30 years) where there are aggravating

\textsuperscript{21} Articles 422-423, 436 and 450 of the 2014 Family Code Bill
\textsuperscript{22} Paragraph 2 of article 42; CEDAW (2011), p. 41
\textsuperscript{23} CEDAW (2011), p. 15
\textsuperscript{24} Articles 3 and 13 of the 2014 Family Code Bill
\textsuperscript{25} OAS (2012), p. 139
\textsuperscript{26} CEDAW (2013), p. 18
\textsuperscript{27} CEDAW (2011), p. 15
\textsuperscript{28} Comité de América Latina y el Caribe para la Defensa de los Derechos de las Mujeres et al. (2013), p. 5
\textsuperscript{29} Oficina Nacional de Estadística (2013), p. 595
\textsuperscript{30} Article 303
circumstances, such as pregnancy, physical or mental impairment, or rape of a child.\textsuperscript{31} Rape within marriage and de facto unions is a crime under the Penal Code.\textsuperscript{32}

Data from the Dominican Attorney General indicates there were 66,177 reports of gender and domestic violence in 2011 alone.\textsuperscript{33} According to the latest Demographic and Health Survey (2007), around 107\% of women interviewed reported at least one act of sexual violence in their lifetime.\textsuperscript{34} Moreover, Dominican civil society organisations reveal that conviction rates are low. Over the course of 15 years – from 1997 to 2012 – only 220 cases of gender-based violence received judgments, including 64 cases of rape and 9 sexual assaults.\textsuperscript{35} According to the NGO CLADEM, part of the reason for the low conviction rate is that “[t]here is no public defender service for the victims in a vast majority of cases that go to trial, and the lawyers as litigants are unaware of the complexity of the phenomenon of gender violence...”\textsuperscript{36}

Proposed changes to the Penal Code could affect legislation regarding violence against women, though not necessarily in a positive sense. According to Amnesty International’s latest country report, “[w]omen’s rights organizations expressed concern that [the] proposed changes ... represented a backward step in combating violence against women and girls. For example, it did not include the crime of gender-based violence and reduced the penalties for certain forms of violence against women and girls.”\textsuperscript{37}

Sexual harassment is included both in the Penal Code\textsuperscript{38} in the Dominican Republic, as well as in the Domestic Violence Law No. 24 (1997). According to both texts, sexual harassment is defined as any order, threat, offer or constraint intended to obtain favours of a sexual nature, made by a person (man or woman) who abuses the authority conferred upon him/her by his/her occupation. The Labour Code not only protects employees from sexual harassment, but mandates that employers take action if it occurs.\textsuperscript{39} Sexual harassment is punished by one year of imprisonment and a fine, ranging from 5 to 10 000 pesos.

Civil society organisations argue that the current law as it exists in the Penal Code is insufficient in that it does not recognise cases where the harasser and victim are at the same hierarchical level. Further, sexual harassment is only considered based on gender discrimination, not on gender identity or sexuality.\textsuperscript{40}

According to data from the Ministry of Women, sexual harassment is a problem in Santo Domingo and the surrounding district, with incidents reported by 28.3\% of women interviewed face-to-face and 31.7\%

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\textsuperscript{31} Article 303-4
\textsuperscript{32} Article 303-4.7
\textsuperscript{33} Comité de América Latina y el Caribe para la Defensa de los Derechos de las Mujeres et al. (2013), p. 3
\textsuperscript{34} CESDEM and Macro International, Inc. (2008)
\textsuperscript{35} Comité de América Latina y el Caribe para la Defensa de los Derechos de las Mujeres et al. (2013), p. 3
\textsuperscript{36} CLADEM (2012), p. 2
\textsuperscript{37} Amnesty International (2013)
\textsuperscript{38} Article 333-2
\textsuperscript{39} Article 47.9
\textsuperscript{40} Comité de América Latina y el Caribe para la Defensa de los Derechos de las Mujeres et al. (2013), p. 15
interviewed by phone. Further, NGOs have documented severe sexual harassment and sexual violence committed against Haitian women who work as domestic workers, particularly in the area on the border between Haiti and the Dominican Republic.

There is no evidence that female genital mutilation is practised in the Dominican Republic.

More

Femicide is considered a widespread problem in the Dominican Republic. According to the latest civil society alternative report to the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) (citing the Dominican Attorney General), from January 2005 to December 2012, 1,580 women have been victims. Despite the number of reported crimes, cases of femicide were prosecuted only eight times between 1997 and 2012, and three of these were reversed under a Criminal Code exception for intoxicated aggressors.

Human trafficking also remains an issue in the Dominican Republic. Despite policies set out in the National Plan against Trafficking, no progress has been made in implementing prevention campaigns, and there have been only three sentences against trafficking since 2007.

The Penal Code criminalises abortion with no exceptions. However, at the time of writing there were “proposed changes to the Penal Code [that] would allow for an exception to the ban when the life of the woman is at risk.” Government intervention has recently taken place in certain such instances. For example, in 2012, the government intervened in the case of a pregnant 16-year-old whose doctors would not treat her leukaemia due to the dangers posed to the foetus. The intervention came too late, however, and the teenager died.

3. Son bias

The male-to-female sex ratio at birth in 2013 is 1.04 and for the working age population (15-64 years old) is 1.04. There is no evidence to suggest that the Dominican Republic is a country of concern in relation to missing women.

More

UNICEF offers data on education from 2008 to 2012. There is barely any gender gap in pre-primary education. The gender gap in primary education slightly benefits boys over girls. This trend is reversed in secondary education, especially when attendance is taken into account.

There is a slight gender gap benefiting women when it comes to the youth (15-24 years) literacy rate.

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41 Comité de América Latina y el Caribe para la Defensa de los Derechos de las Mujeres et al. (2013), p. 14
42 Comité de América Latina y el Caribe para la Defensa de los Derechos de las Mujeres et al. (2013), p. 15
43 Comité de América Latina y el Caribe para la Defensa de los Derechos de las Mujeres et al. (2013), p. 3
44 Article 64; Comité de América Latina y el Caribe para la Defensa de los Derechos de las Mujeres, et al. (2013), p. 3
45 CLADEM (2012), p. 2
46 Article 137; CLADEM (2012), p. 4; UN DESA (2013)
47 Amnesty International (2013); CEDAW (2011), p. 33
48 Center for Reproductive Rights (2012)
49 CIA (2013)
The data on child labour from 2002 to 2012 suggests that this issue affects males much more than females.  

4. Restricted resources and assets

The Constitution establishes the right to property and does not discriminate on the grounds of gender. Law 855 (1978) amended the Civil Code, establishing that married women have the same civil rights as single women. Thus, the adopted matrimonial property regime cannot contain any restrictions on the legal capacity of a wife. Moreover, Law 189 (2001) stipulates that neither spouse can sell or mortgage joint property without the other’s consent.

Some women have benefited from recent programmes granting them access to land, and, according to the latest report to CEDAW (2011), women represent 26% of the beneficiaries of land reform. The Dominican Agrarian Institute reports that, “81,469 plots of land were distributed from 1962 to 2007, 60,136 of them to men and 21,330 to women.” However, there is still a gender gap in land ownership, with only 29.53% of land belonging to women.

Under the Civil Code, property and major assets are administrated jointly in the case of married partners. Property ownership is not dependent on marital status; according to the Constitution and the Civil Code, unmarried women and men have equal rights. Moreover, the 2014 Bill for the New Family Code establishes the Right to Housing for all families and the duty of the State to provide them with decent housing.

While the Supreme Court ruled in 2001 that de facto unions must be recognised as legitimate unions, the FAO reports that women cohabitating with their partners out of wedlock are often vulnerable in terms of their property rights.

Concerning access to financial services, both married and unmarried women are able to start a business and to sign contracts in the same way as men. Nevertheless, access to credit has been flagged as a difficulty for women in the last several reports to CEDAW. In order to address this issue, Decree No. 238-97 created the National Council for the Promotion and Support of Micro, Small and Medium Enterprises which, together with the Ministry of Women, have signed an agreement “to encourage positive support for women’s initiatives by ensuring that they have access to credit programmes on an equal footing with men, and in order to reduce poverty.”

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52 Article 51
53 Article 213
54 CEDAW (2011), p. 40
55 CEDAW (2011), p. 36
56 CEDAW (2011), p. 36
57 Articles 1401-1408 and 1421; World Bank (2013b)
58 Article 51
59 Article 213
60 Article 8
61 FAO (n.d.); Supreme Court (2001)
62 Article 62 of the Constitution; World Bank (2013b)
63 CEDAW (2011), p. 17
More recently, women’s access to formal banking institutions has reached near parity with men. According to data from the World Bank, 37% of women compared to 39% of men have accounts at formal financial institutions, and 12% of women compared to 16% of men have had loans from financial institutions in 2012-2013. And the latest data collected by the Microfinance Information Exchange shows that women made up the clear majority of borrowers at Dominican microcredit institutions in 2012, at 72.34%.

5. Restricted civil liberties

Freedom of movement and access to public space is protected under the Constitution. Women can legally choose where to live and do not need male permission to leave the house. Freedom of assembly and collective action are protected under the Constitution. However, the Inter-American Commission on Human Rights has documented instances of violence, including murder, against transgender women. Human Rights organisations have also raised concern about the discriminatory treatment of migrant women, notably Haitian women, in the Dominican Republic. Moreover, the Human Rights Watch wrote a letter to the Pope in 2013 denouncing the hostile and violent environment to which lesbians and transgender women are exposed in the Dominican Republic.

In relation to political voice, Electoral Law No. 275 (1997) mandated that political parties in their candidate lists for elections for the Chamber of Deputies must include at least 33% women candidates. This law also mandated that electoral lists include at least 33% women at the sub-national level. Legislative quotas remain in effect for the Lower House and sub-national levels only, not the Senate. More recently, the issue of political participation was addressed in 2010 with the reform of the Constitution – which also mandates the eradication of inequality and gender discrimination – calling for the “balanced participation of both sexes in the nominations to the posts of popular election, the administration of Justice and State controlled bodies.” In regards to the representation of women in local governments, Law 13-00 stipulates that the city ballot of all parties must include a female candidate for the positions of síndico or vice-síndico (mayor or vice-mayor).

According to 2014 information, women occupy 20.8% of the Lower House of Congress, that is, 38 seats, out of 183. In the Senate the percentage is much lower, 9.4%, thus, 3 out of 32 seats.
More

According to a recent study on women in the media by the International Women’s Media Foundation, men outnumber women in media 2:1 in the Dominican Republic, and glass ceilings in media occupations were particularly prevalent.77

As for workplace rights, Law 1692, which modified the Labour Code in 1992, includes the “prohibition of discrimination or exclusion based, among other reasons, on sex, age, race and colour.” The Labour Code also stipulates the right of women to enter into a labour contract equally to men and to enjoy the same rights and duties as men with regard to labour laws.78

The 2014 Bill for the New Family Code establishes not only the right of each spouse to carry out a professional activity79 but also the right to the reconciliation of family and professional life. Under this new law, employers would have the duty to respect this right. Employers must accommodate for breastfeeding mothers of children younger than six months old and must be flexible in providing special permits for attending family reunions, such as birthdays, graduations, school events and funerals.80

The Labour Code also mandates maternity leave for women, covered 50% through the employer and 50% through Social Insurance. Every female worker is entitled to 12 weeks of maternity leave at 100% of her wages, provided that she has contributed to Social Insurance for the previous 32 weeks in the 12 months prior to her leave.81

77 Articles 18 and 231; IWMF (2011), p. 11
78 FAO (n.d.)
79 Article 20, Paragraph I
80 Article 10
81 ILO (2011)
Sources


