



## **List of critical issues submitted to the CEDAW Committee October, 2018**

This report has been prepared by the Latin-America and Caribbean Committee for the Defense of the Rights of Women-Dominican Republic (CLADEM-RD, for its Spanish acronym), and aims to present the Committee with a view on the implementation of the Convention on the Elimination of Discrimination Against Women (CEDAW) in the Dominican Republic and the impact of inequality between men and women, so that it can open a dialogue with the Dominican State in a constructive way to improve the overall situation.

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### **(1) Arts. 2, 3, 4 -Discrimination**

The Dominican Republic currently has a Ministry of Women with ministerial rank and autonomous character. However, despite the transversal public policy which it is called to execute according to the law that creates it, it has not achieved the desired impact.

Dominican society preserves within its distinctive features cultural practices and customs that discriminate against women, promoted by different social instances, within these some State institutions, in which schemes and rules are imposed that affect women directly. The media also reinforces discriminatory messages by promoting female sexual objectification and by promoting an alleged virile male superiority through images and radio messages. While the Constitution guarantees freedom of expression, the State has not taken sufficient measures to prevent actions that violate the right to equality.

CONAVIHSIDA<sup>1</sup> has been working on a bill draft on equality and non-discrimination that includes discriminatory actions (especially against women) in different areas, such as health, education, work, social security, sexual orientation and gender identity, among others, and also the ways of protection of the constitutional right to equality and non-discrimination. It is a consensus document (including civil society and vulnerable groups). At the moment it's in review and analysis by the Legal Office of the Executive Branch.

State institutions have expressed their concern for the inclusion of articles about SOGI's, saying they would not be approved by Congress. It is time for the Dominican State to assume its commitment to international decisions and agreements by introducing and approving the bill as such, in addition to its commitment to guarantee the full enjoyment of fundamental rights of all citizens regardless of differences.

### **Questions to the State:**

1. What measures has the State taken to eliminate the social and cultural patterns and discriminatory practices against women promoted from public and private institutions?
2. What measures has the State taken to approve the bill on equality and non-discrimination?
3. What measures has the State taken to adopt the previous recommendations offered by this Committee and other United Nations agencies, to grant more public funds for the development of public policies to overcome gender inequities?

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<sup>1</sup> <http://www.conavihsida.gob.do/>

## **(2) Article 5. Violence against women**

The Dominican Republic is the third country in Latin America and the Caribbean with the highest rate of femicide<sup>2</sup>, it is estimated that about 100 intimate femicides occurred each year<sup>3</sup>, very alarming figures, despite the sub-registration of cases.

The number of complaints at prosecutor's offices exceeds the capacity of the Public Ministry to respond. The system maintains the wide gap between the percentage of cases received and that of judicialized (2.1%)<sup>4</sup>, which indicates a collapse without response capacity to offer effective protection and security to women. There are only 4 protection shelters for the 31 Provinces. The interinstitutional coordination is weak, and the lack of data system prevents from identify the same aggressor with different denounces in different localities.

The National Congress is empowered with a new comprehensive bill on violence against women and girls, which proposes the establishment of budgets based on a percentage of the ministries responsible for participating in the system of care and prevention. Within the obstacles for approval is expressed the resistance to the designation of budget and lack of political will.

Forced child pregnancy occurs in girls between 10 and 14 and is mainly caused by rape, which is usually perpetrated by a member of the family. This is an invisible phenomenon but that happens very often in the Dominican Republic. Another aspect of this serious situation is the impunity, the State re-victimizes girls and their families by not prosecuting the perpetrators or make families undergo long and multiple bureaucratic processes with authorities who are not sensitized to this problem which causes victims to get tired and abandon the process.

Early unions represent a serious risk factor for girls. Girls from poor families living in rural areas, from marginalized neighborhoods and Afro-descendent are particularly vulnerable to this practice. Early unions present high levels of domestic violence, contribute to girls being considered of "little value" and are framed in a role in which girls are only good for domestic care and have a spouse regardless of age. Girls are seen as an economic burden for the family and are often exchanged for money or other goods.

The current Civil Code and Law 4999 allows the marriage for person under 18 with the consent of the parents, for boys under 16 and for girls under 15 years old, a Court can waive this procedure. Currently, there is high number of cases approved where the courts have allowed marriages of girls under 15 years of age with much older men. The fact that judges are allowing these marriages denotes the lack of knowledge about the interpretation of CEDAW by this Committee on this matter

### **Questions to the State:**

1. What measures has the State taken to approve a new and improved bill on violence against women and girls?
2. What percentage of the general budget of the nation is dedicated to public policies with a gender perspective which contribute to the Elimination of discrimination and violence against women?
3. Which systematic measures does the state use for the training of prosecutors, judges and health providers attending the victims of gender based violence, including forced child forced pregnancy and child marriage?
4. What measures are taken to increase the judgement rate on GBV cases?
5. What measures is the State taking to prevent forced child pregnancy and prosecute the perpetrators of rape?

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<sup>2</sup> <https://www.cepal.org/es/infografias/femicidio>

<sup>3</sup> Data from the Public Ministry and the Ministry of the Interior and Police Citizen Security Observatory: [www.pgr.gob.do/tag/femicidios/](http://www.pgr.gob.do/tag/femicidios/)

<sup>4</sup> Idem.

6. What measures has the State taken to approve the Civil Code with the legal age for marriage no less than 18 years old for both sexes?
7. How many under 18 years old are legally married under Dominican law and what efforts is the State taking to prevent this practice?
8. What measures are taken in order LGBT+ cases presented at the GBV Prosecutor Unit succeed in the judicial system?

### **(3) Article 6. Human Trafficking, especially women and girls**

In 2015 the Specialized Prosecutor's Office against Illegal Smuggling of Migrants and Human Trafficking rescued 101 victims of human trafficking, 96 were women and 82 with ages between 12 and 17 years old. Most of them were subjected to commercial sexual exploitation. There is only 1 shelter for these cases for the whole country, and children victims cannot stay in the same place. There are challenges on the protection of victims once they are in the judicial process (ex. economic empowerment, residence permits for migrants, reinsertion programs, voluntary return, etc.). The law does not typify the current *modus operandi* of this crime through electronic sources (social networks and cellphones).

Given the increase of Venezuela migrants in the country, Venezuelan women are highly victims of gender based violence and sexually stereotyped; they are victims of trafficking and smuggling in urban bars and in touristic areas.

#### **Questions:**

1. What is the number of judgments issued condemning cases of trafficking of women and girls, domestically and abroad, for the purpose of sexual exploitation?
2. What measures the State has taken to create awareness to identify and denounce these crimes by state agents and the population?
3. What measures are taken to protect women and children victims?
4. What are the steps taken to modify the current law to include integral protection for victims and update the prosecution of this type of crimes?

### **(4) Article 7. Political participation**

Although the Constitution promulgated in 2010 establishes the principle of equality between men and women, as well as the obligation of the State to propose equitable candidacies in the positions of direct election, according to the Observatory for Political Participation of Women of the Central Electoral Board, in the elections of 2016 only 7.7% of 155 town halls are headed by women; of 32 senators only for 4 are women, and only 40 representatives among 190 seats in the Chamber of Deputies, equivalent to 12% and 20%, respectively. In this context, 12 provinces do not have female representation in the National Congress.

The few women in Congress are subject to discrimination and harassment by their peers with no consequences from the leadership of the Congress, especially women from rural areas, afro descendent or personal background.

Women are subject to violence after the win their elected by popular vote and they have to decline the post to favor men and neither the Central Electoral Board nor the Superior Electoral Court take measures to prevent, condemn and to make the political parties accountable these practices.

The National Congress haven't approved the Political Parties Bill, where the need for parity is been discussed, since 2010.

#### **Questions for the State:**

1. What measures considering the proposed bill on political parties are been taken to ensure the constitutional obligation of equity in the candidacies and positions at the State?
2. Are there consequences to the parties for violations?

3. Considering the project above, are there any obligations to the political parties to educate their members about gender and human rights?

### **(5) Article 9 – Right to Nationality**

Constitutional Court Ruling No. 168-13 of 23rd September 2013, massively denationalized Dominicans of Haitian origin born in Dominican territory, whether registered or not in the Dominican civil registry. As a result of international pressure, the State adopted Law 169-14 to restore nationality, based on an “amnesty” or “a past mistake by the State” of having registered in the civil registry people born in Dominican territory of undocumented parents; an imperfect law that does not solve the statelessness situation today.

The majority of the unregistered population born in country has no legal solution; and those born from Haitian mother and Dominican father face risk of statelessness given the lack of documentation of the mother. Mothers cannot register their children, and subsequent generations remain unregistered; given the country laws and policies on nationality, the documentation of the mother and her regular migratory status are required, the evidence of the child birth in the country before 2010 is not enough to register the child as Dominican. Most children are registered in a “foreign book” (a birth certificate without no nationality, remaining in a limbo), or the children need the recognition of the Dominican father and the ID of the mother to become Dominican by *jus sanguinis*.

In 2015 the Constitutional Court (TC 29-2015) ruled in conformity with the Constitution, article 1.b of the Naturalization Law No. 1683 of 1948, which establishes the residence requirement for the foreign man married to a Dominican woman, while there is no such requirement for the Dominican man married to a foreign woman. Also there is no provision in the law in the case of consensual unions when one person in the couple is from a different nationality.

#### **Questions:**

1. What measure is being taken by the State to immediately restore the nationality of those denationalized from 1929 until 2010 by the 2013 Constitutional Court ruling?
2. What measures the State is taking to prevent statelessness and its dire impact on women and their children?
3. What measures the State is taking to avoid deportations without due process and profiling criteria?
4. Why the State granting nationality of the children born in Dominican Republic on the documentation and migratory status of the mother?
5. Why official statistics concerning the birth of children in hospitals only refers to births from “Haitian” mothers, and do not identify or differentiate from mothers born in the Dominican Republic of Haitian origin without documentation?
6. What measures the State is taking to extend the Regularization Plan for Migrants, including on behalf the diaspora of Venezuelans?

### **(6) Article 10. Right to Education**

Although boys and girls have access to primary school and high school in similar proportions, the representation of gender roles is present - explicitly or hidden – in the curriculum, demonstrating that gender equality is not yet a priority for education authorities. A direct consequence of this is the almost total neglect of human rights education and gender, resulting in the weight of stereotypes and cultural conditioning that generate and reinforce gender violence from the classroom and the school environment.

Despite the demands of civil society organizations, the Ministry of Education strongly resists the inclusion of comprehensive sex education in the face of pressures from religious institutions, especially Catholic and evangelical churches. An essential measure in the promotion of equality education is comprehensive sexual

education, to contribute to the prevention of high rates of teenage pregnancies. Sex education in schools does not reach a third of the students (32%).<sup>5</sup>

Currently, the young Dominican women are forming in the technical high school in the areas of nursing, food and services, these training options can be explained by the perpetuation of stereotypes in schools and the structure of the Dominican labor market, which offers women alternatives work mainly in the informal sector or in low productivity and quality jobs as workers of services.

Afro descent women and girls are discriminated because of their natural curly hair or “afro style”. Women, especially in private enterprises and academic institutions, are compelled to look “presentable” and treated to be fired, because the hair is not straight or tied; children in schools are threatened to not receive the exams or are ordered to “comb” their hair in order to enter the classroom.

### **Questions:**

- 1- What measures are being taken to include human rights, gender equality and comprehensive sex education in the national curriculum?
- 2- What steps are being taken to encourage girls and women to choose careers in high demand in the labor market?
- 3- What measures is the State taken to avoid discriminatory practices against girls and women in schools?

### **(7) Article 11. Right to work and employment**

The gender gap in labor participation in the Dominican Republic is very high. The Central Bank says that 54% of women are responsible for making financial decisions in the household, especially between 25 and 46 years. Similarly, 65% contribute to the family budget<sup>6</sup>. However, these work at home caring for the family do not receive the recognition from society or the state. When they are employed, they continue to receive an average salary equivalent to 78.7% of the income received by men<sup>7</sup> that perform the same job, and in addition to that in terms of privileges they do not receive the same ones.

The proportion of participation of men and women in domestic work is significantly higher in women: 91% versus 9%. Dominican domestic workers do not reach high levels of education since the schedules for dependent care in employee’s household collide with the first study period, even for night school. ). Most workers in lower income households working in regular days (all day, all week), under the “no sleep” modality<sup>8</sup> generally perform all domestic household activities and for much longer hours than legally accepted for all other occupational categories. They work 10 to 12 hours a day.

### **Questions:**

- 1- What consequences foreseen Dominican laws against sexual harassment in the workplace? And how many people have been convicted of this crime?
- 2- What policies are being developed aimed at bridging the gaps in labor, pay and equal access to the labor market?
- 3- What policies are being developed to better the work conditions of domestic workers?
- 4- What measures are being taken to improve the situation of workers who combine work responsibilities with the attention and care of their families?

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<sup>5</sup> Ministry of Education and UNFPA, 2013: Baseline survey on sex education in the Dominican Republic.

<sup>6</sup> Central Bank of the Dominican Republic, 1st. Survey of Economic and Financial Culture of the Dominican Republic (2014) [http://www.bancentral.gov.do/publicaciones\\_economicas/otros/Encuesta20141119.pdf](http://www.bancentral.gov.do/publicaciones_economicas/otros/Encuesta20141119.pdf)

<sup>7</sup> National Labor Force Survey (ENFT, for its Spanish acronym). Gender parity ratio in the average salary per year, from 2008 to 2014. [Http://www.ilo.org/surveydata/index.php/catalog/1071](http://www.ilo.org/surveydata/index.php/catalog/1071)

<sup>8</sup> Do not live in the house of the employer.

## **(8) Article 12. Right to health**

In the Dominican Republic, even though 98.5% of births are attended in health facilities and 98.6% by qualified personnel, maternal mortality is around 108.7 per 100,000 live births. According to the National Health Service (NHS), four out of ten deliveries performed in public hospitals are performed by cesarean section, and in private clinics, nine out of ten, which increases the risk of infections and maternal mortality.

Even though this Committee has recommended in several occasions to decriminalize abortion in three cases (when the life of the mother is endangered, by rape or incest, or when because of malformations it's incompatible with life) the total criminalization of abortion in the country persists. Unsafe abortions are the third leading cause of maternal death, and has not yet been consolidated any legal change that aims to reverse this situation.

Although a Criminal Code was adopted and promulgated by the President of the Republic decriminalizing abortion on three grounds, the Constitutional Court declared it unconstitutional by decision TC/0599/15 maintaining in force an outdated Criminal Code of 1884. Currently, the National Congress holds three Penal Code drafts, of which two do not establish the three grounds for decriminalization of abortion

There are cases of women being criminally processed for obstetric emergencies under prohibition of abortion in all its forms. The cases reported are of women of rural and poor backgrounds lacking proper and timely legal representation. The Public Ministry has not adopted any guidelines on how to proceed in these cases according to women's rights.

### **Questions**

- 1- Which measures does the Dominican State plans to take to prevent maternal mortality?
- 2- What measures intends to take the State to decriminalize the interruption of pregnancy when there is danger to the life and health of the mother, rape or incest, or when because of malformations it's incompatible with life?
- 3- How many cases are being prosecuted by Public Ministry under the abortion law and what are the results?
- 4- What measures has the State taken to trained medical personnel to proper care of women seeking assistance in cases of ongoing abortion, involuntary or else?
- 5- What measures will the State take to meet the unmet need for contraception?
- 6- Which measures intends to the State take to reduce the prevalence and incidence of HIV and AIDS in women?
- 7- What measures is the State taking to trained medical personnel to proper care for LGBT+ people seeking medical assistance without discrimination?