



BRIEFING PAPER ON SEXUAL EXPLOITATION OF CHILDREN IN

Dominican Republic

WHAT ARE THE ECPAT COUNTRY OVERVIEWS?

ECPAT Country Overviews comprehensively present all the existing research and publicly available data about sexual exploitation of children in a country. A detailed analysis of the legal and policy framework for addressing these crimes is also included. The overviews provide an assessment of achievements and challenges in implementation, existing counteractions, and suggest concrete priority actions to eliminate the sexual exploitation of children in the target country.

In Dominican Republic, children face increased vulnerability to sexual exploitation due to factors such as access to education and social norms which can be seen to normalise forms of child sexual exploitation in prostitution, travel and tourism contexts or within child, early and forced marriages.

Despite progress, access to education remains an issue within Dominican Republic. According to the last available government data, more than 400,000 children were reported out of school during the 2018/2019 school year.¹ Lack of school enrolment is more prevalent among some groups such as children with disabilities, children coming from families suffering economic vulnerability and undocumented children of Haitian origin.² The COVID-19 pandemic, which led to the closure of schools and the continuation of online classes, has created new barriers to education for some children in poorer households who do not have access to electricity or the Internet.³ Research has shown that children and adolescents out of school can end up feeling excluded from the community and therefore more likely to be abused by adults and peers who may exploit them.⁴ In this way, the education system functions as a protective mechanism, allowing for a sense of belonging and stability.⁵

Dominant social norms like gender discrimination have been identified as contributing to the normalisation of violence against women and girls in Dominican Republic.⁶ In 2020, Dominican Republic was the country in Latin America with the second highest rate of femicides, only behind Honduras.⁷ According to the Prosecutor Office, 13% of femicide victims in 2021 were under the age of 18 (20 out of a total of 182).⁸ A 2018 study on sexual exploitation of children in Enriquillo region stated that cultural norms such as machismo, sexist and adult-centred attitudes and the normalisation of violence against women and girls can be linked to social tolerance towards crimes of child sexual exploitation such as exploitation of children in prostitution and child marriages and early unions.⁹ These crimes are justified by the community because considered a way for children and adolescents in situations of poverty and lack of opportunities to sustain themselves.¹⁰

DEFINING SEXUAL EXPLOITATION OF CHILDREN

Child sexual abuse refers to sexual activities committed against children (persons under 18), by adults or peers and usually involves an individual or group taking advantage of an imbalance of power. Force may be used, with offenders frequently using authority, power, manipulation, or deception.¹¹

Child sexual exploitation involves the same abusive actions. However, an additional element must also be present – exchange of something (e.g. money, shelter, material goods, non-material things like protection or a relationship), or even the mere promise of such.¹² It can occur offline, online and through a combination of both.

LEGAL FRAMEWORK

Dominican Republic has ratified most major international conventions relevant to sexual exploitation of children and is party to additional international and regional frameworks. With regards to national legislation, Dominican Republic comprehensively criminalises conducts related to the exploitation of children in prostitution,¹³ and has extensive provisions prohibiting crimes related to child sexual abuse material.¹⁴

Nonetheless, there are still some limitations in the legal framework. For example, there are no provisions explicitly criminalising sexual exploitation of children in the context of travel and tourism. The legislation contains additional gaps like a weak definition of trafficking not in line with international standards¹⁵ and a patchy treatment of extraterritorial jurisdiction over offences related to sexual exploitation of children.

SEXUAL EXPLOITATION OF CHILDREN IN TRAVEL AND TOURISM

Dominican Republic is one of the main tourist destinations in Latin America and the Caribbean with more than six million tourists visiting the country each year.¹⁶ At least two studies on human trafficking have reported cases of sexual exploitation of children in a number of tourist sites such as Puerto Plata, Higüey, La Romana and Boca Chica.¹⁷

Existing Dominican criminal legislation does not explicitly cover this crime. However, the new Penal Code, which is still pending for approval as of September 2022, would address this legal gap by punishing the promotion, offer and sale of Dominican Republic as a tourist destination for sexual exploitation of children.¹⁸ In addition, the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism ("The Code") was implemented in 2013¹⁹ and has so far been signed by 54 tourism companies with another 50+ companies with whom MAIS is engaging in the process of becoming members of The Code.²⁰ Although this represents a step forward in the protection of children in the tourism industry, it is a voluntary measure that is not sufficient to mitigate the potential damage or risk that its non-compliance would imply; hence binding requirements for businesses in the travel and tourism sector, encompassing measures that protect children from sexual exploitation should be developed.

EXTRATERRITORIAL JURISDICTION

Travelling child sex offenders often choose destinations known for their lenient laws.²¹ Legislation needs to enable cross-border responses in order to protect children everywhere and avoid impunity for offenders.²² This is achieved through extraterritorial laws that allow countries to criminalise acts committed outside their borders and treat them as if they had been committed within them.²³ However, Dominican Republic does not establish extraterritorial jurisdiction over most crimes related to child sexual exploitation, and the new Criminal Code, pending approval, does not include provisions in this regard either. This means that Dominican criminal law can neither be applied to crimes committed abroad by a Dominican citizen (active extraterritoriality) nor to crimes committed by foreigners abroad against a Dominican child (passive extraterritoriality). These jurisdictional gaps could result in impunity of offenders in transnational child sexual exploitation cases.²⁴

WAY FORWARD

 Dominican Republic institutes mandatory government-regulated child protection standards for the tourism industry and sets up conditions for the travel of persons (both nationals and foreigners) convicted of sexual exploitation of children. For example, including legal provisions to deny their entry to and/or leave from Dominican Republic.

 Regulate the extraterritorial application of Dominican law to prosecute sexual offences against children, including offences that occur online, committed abroad by nationals or against nationals of the Dominican Republic, within the parameters of Article 4 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

GOVERNMENT COMMITMENT AND CAPACITY

COORDINATION AND IMPLEMENTATION OF NATIONAL PLANS AND POLICIES

Dominican Republic has not produced or implemented a national action plan specifically dedicated to the sexual exploitation of children since 2006.²⁵ Additionally, most plans containing objectives relating to sexual exploitation,^{26,27} have expired and no new plans have been adopted to replace them as of September 2022. No publicly available monitoring reports evaluating activities conducted in the framework of these plans have been found in the course of this research. The only active plan with some relation to sexual exploitation of children is the recently adopted Policy for the Prevention and Attention of Early Unions and Adolescent Pregnancies, which however only focuses on the issue of child, early and forced marriages and informal unions.²⁸

The National Council for Children and Adolescents is the main coordinating body for the institutional framework on child protection.²⁹ In 2021, the Cabinet for Children and Adolescents was created as an intra-government body to coordinate child-focused policies such as the Policy for the Prevention and Attention of Early Unions and Adolescent Pregnancies.³⁰

Despite the existence of these two child protection government bodies, the absence of a body or committee specifically in charge of dealing with the sexual exploitation of children and the lack of an updated national plan pose a major obstacle to the elaboration and implementation of a comprehensive public policy and strategy. Moreover, the government often does not clearly differentiate this issue from related crimes such as sexual abuse, rape and incest, which can result in policies that fail to address the specific challenges stemming from sexual exploitation of children.

DATA COLLECTION ON EXPLOITATION OF CHILDREN

All the recently published research on sexual exploitation of children in Dominican Republic has been conducted by international agencies,³¹ local and international non-governmental organisations³² and media outlets.³³ These studies, despite being a useful source of information, do not cover all forms of child sexual exploitation and sometimes have a regional focus only, making it difficult to assess the scale and scope of the issue at a national level. Additionally, there is a need for further research on the specific vulnerabilities of certain populations. For example, although anecdotal evidence suggests that Haitian children crossing the border are exposed to trafficking for the purpose of sexual exploitation in tourist areas of Dominican Republic,³⁴ no research has been done on this.

The only available crime statistics are those relating to trafficking offences for which the Government has been publishing yearly reports at least since 2009, when the first National Action Plan on Human Trafficking was approved.³⁵ Furthermore, crime statistics on sexual offences published by the Prosecutor General Office³⁶ neither disaggregate offences committed against children, nor specifically include sexual exploitation offences as typified by relevant legislation.³⁷ Better data would be helpful for non-governmental organisations conducting research on the matter and would allow better government planning and delivery of targeted prevention programmes, and tailored responses to affected children.

WAY FORWARD

- ◆ Dominican Republic enacts a new national action plan against sexual exploitation of children – treating exploitation as a separate crime from abuse – including measures to tackle all its manifestations.
- ◆ Dominican Republic creates a body or committee specifically focused on addressing sexual exploitation of children. Alternatively, Dominican Republic reinforces the mandate of the National Council for Children and Adolescents or the Cabinet of Children and Adolescent as the main coordinating body tasked with addressing this issue.
- ◆ Dominican Republic improves the quality and detail of crime statistics related to child sexual exploitation, including disaggregated data on offenders and victims' characteristics and funds additional field research on the prevalence of the different manifestations of child sexual exploitation.

CHILD PROTECTION CHALLENGES AND FRONTLINE RESPONSES

SITUATION OF CHILDREN OF HAITIAN DESCENT

Dominican children of Haitian descent as well as Haitian migrant children in the country face challenges to access education³⁸ and other public services due to discriminatory government policies, which results in an increased vulnerability to child sexual exploitation.³⁹ Additionally, the former Special Rapporteur on the sale and sexual exploitation of children indicated, after her visit to the country in 2017, that Haitian child migrants crossing the border often fall victim of traffickers to be sexually exploited in Dominican Republic.⁴⁰ A media investigation conducted by the newspaper El País in 2021 found that Haitian girls are sometimes taken by traffickers to tourist areas to be sexually exploited by foreign clients.⁴¹ The United States' Department of State has also indicated the occurring of trafficking of Haitian migrants, including children in border areas, as unofficial border crossings remain unguarded and porous.⁴²

CHILD MARRIAGES AND EARLY UNIONS

Research published in 2019 and 2022 has shown the link between child, early and forced marriage and internal trafficking, with reports of cases of child trafficking for the purpose of forced marriage⁴³ as well as links with cases of exploitation of children in prostitution, where children exploited in prostitution are sold and married to their offenders in a practice referred to as “honour marriages”.⁴⁴

Dominican Republic has one of the highest child, early and forced marriage rates in Latin America,⁴⁵ with 32% of women aged 20-24 being married or in an informal union before they turned 18, and 9% before they turned 15, according to a national household survey conducted in 2019 which included a sample of 22,295 women aged 15-49.⁴⁶ Despite the legal reforms that led to the prohibition of child marriage in 2021,⁴⁷ the problem persists in the form of informal/unregistered unions.⁴⁸ According to government statistics from 2018, 66.2% of girls aged 15-19 who had become mothers when they were minors were part of an informal union and only 2.2% were married, which indicates that unregistered unions were considerably more prevalent than marriages even before the legal reforms took place.⁴⁹ The Policy for the Prevention and Attention of Early Unions and Adolescent Pregnancies adopted in 2021 aims to tackle this problem but lacks a specific focus on the links between early unions and child sexual exploitation.⁵⁰

WAY FORWARD

- ❖ Dominican Republic adopts measures to effectively recognise and guarantee access to education for all children of Haitian descent in the country, in order to reduce enabling factors that increase the potential risk to suffer sexual exploitation, such as social exclusion and poor livelihood opportunities.
- ❖ Dominican Republic develops targeted programmes to prevent child trafficking for the purpose of sexual exploitation in border areas.
- ❖ Dominican Republic funds and conducts specific research on the relationship between child marriage, including early unions, and situations leading to sexual exploitation, to better understand this challenge and strengthen the recently approved policy for the prevention of early unions and adolescent pregnancies.

ACCESS TO JUSTICE AND RIGHTS TO REMEDIES

Law No. 136-03 represented a significant advance in child protection as it established the National System for the Protection of Children's Rights made up of a set of institutions, that formulate, coordinate, integrate, supervise, execute and evaluate public child protection policies and programmes, including a broad range of provisions that improved children's legal right to access to justice, recovery and to appropriate remedies. However, despite the advances and the promising regulations implemented, the protection system continues to present shortcomings.

NATIONAL COMPLAINT MECHANISMS

Dominican Republic has implemented a series of measures that have increased the capacity of the justice system to identify and prosecute crimes of sexual abuse and exploitation of children, such as a series of direct attention telephone lines -not specifically targeting children- that the State makes available to citizens for reporting, counselling and crime prevention.⁵¹ Further, 22 police units for Attention to Victims are distributed throughout the country and are specialised to receive and process complaints of sexual crimes against children.⁵²

Any person who has knowledge of a sexual crime against children can report it to the Public Ministry and, when the complaint is filed by a child, the official who receives it must guarantee that the parents, guardians or an adult trusted by the child are present.⁵³ Government officials and public and private professionals, are required by law to report all infractions of which they become aware in the exercise of their functions and non-compliance is punished with a fine.⁵⁴ However, there is no provision that establishes that anonymous complaints are sufficient evidence to initiate an investigation.

Dominican legislation establishes statutes of limitations for reporting sexual crimes against children, which circumscribe the period in which it is possible to initiate legal proceedings.⁵⁵ Since children's disclosure often happens a long time after the abuse, this can lead to offenders escaping prosecution in cases where the statute of limitations has expired.⁵⁶

ACCESS TO COMPENSATION

Data from the judiciary showed that a majority (78%) of the 130 analysed sentences punishing sexual offences, of which 83% were cases of child sexual abuse, did not result in any type of compensation.⁵⁷ Although this refers to sexual offences in general and no disaggregate information on cases of child sexual exploitation exist, it illustrates the lack of a comprehensive and effective mechanism to provide compensation for children who have been subjected to sexual crimes.

Law No. 137-03 created a fund to use the proceeds of fines obtained as a result of sanctions to trafficking offences to compensate trafficking victims when they do not receive compensation from the offender.⁵⁸ However, no similar country-managed compensation fund exists for child victims of other sexual exploitation offences.

WAY FORWARD

- ❖ Dominican Republic updates the legislation to ensure that anonymous complaints are sufficient evidence to initiate investigations into possible crimes of sexual exploitation of children.
- ❖ Dominican Republic abolishes all statutory limitations that set a maximum period which one can wait before filing a lawsuit or start prosecution for all crimes of sexual exploitation of children.
- ❖ Dominican Republic ensures effective access to compensation to child victims of sexual exploitation, by allowing the Public Ministry to exercise civil action and seek compensation on behalf of victims and/or guaranteeing payment through a state-managed fund.

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