

DJIBOUTI



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Gender Justice & The Law

DOES THE LAW ENSURE GENDER EQUALITY AND PROTECTION FROM VIOLENCE?

The colour codes indicate whether the laws comply with international human rights standards, the recommendations of the UN Committee on the Elimination of Violence against Women, and recommendations of the country's Universal Periodic Review.

YES

The law provides for gender equality and/or protection from gender-based violence and is substantially compliant with international standards. A green category does not indicate that the law is perfect or that gender justice in the relevant topic area has been fully achieved.

NO

The law does not provide for gender equality and/or there is no or minimal protection from gender-based violence.

Partly

Some gender justice aspects of the law have been addressed, but important gender inequalities remain.

No available data or inadequate information.

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

Djibouti ratified CEDAW in 1998 without reservations.

Constitution

Article 10 of the 1992 Constitution provides that the State assures equality before the law to all without distinction of language, origin, race, sex, or religion.

NATIONALITY LAW

NATIONALITY

There is no discrimination with regard to acquiring citizenship, pursuant to the Nationality Code of 2004.

CRIMINAL LAWS

Domestic violence

The Penal Code of 1995 criminalizes acts of violence. However, Djibouti does not have a separate law that specifically criminalizes domestic violence.

Abortion for rape survivors

Abortion that is not for therapeutic purposes is a criminal offence under Articles 447–448 of the Penal Code, including for survivors of rape.

Female Genital Mutilation / Cutting (FGM/C)

FGM/C was criminalized by Law No. 55 of 2009. Article 333 of the Penal Code provides a sentence of five years' imprisonment and a fine for a person who conducts FGM/C procedures. The law also provides for up to one year's imprisonment and a fine for anyone who fails to report FGM/C to the authorities.

Marital rape

Rape is defined by Article 343 of the Penal Code Law No. 59 of 1995 as an act of sexual penetration committed on another person with the use of violence, constraint, or threat. The courts may consider marital rape as constituting an offence. However, marital rape is rarely prosecuted.

Sexual harassment

Penal Code offences may cover some forms of sexual harassment. Articles 430–431 of the Penal Code criminalize public insult with penalties of six months' imprisonment and a fine.

Human trafficking

Law No. 133 of 2016 on Combating Trafficking in Persons and the Smuggling of Migrants criminalizes trafficking and includes preventive and protective measures.

Rape (other than of a spouse)

Rape with the use of violence, constraint, or threat is punished with a maximum of ten years' imprisonment, or twelve years' imprisonment if there are aggravating circumstances.

Femicide: Mitigation of penalty (so called 'honour' crimes)

No specific provision was identified in the Penal Code reducing penalties for so called 'honour' crimes.

Sex work and anti-prostitution laws

Prostitution is prohibited by Articles 394–398 of the Penal Code. Women who sell sex may be deterred from reporting rape or violence because they risk prosecution for selling sex.

Exoneration by marriage

No specific provision was identified in the Penal Code exonerating perpetrators of honour crimes who married their victims.

Adultery

There is no legal prohibition in the Penal Code against adultery.

Sexual orientation

There is no specific prohibition of homosexual conduct in the Penal Code. There is lack of information about the application of criminal laws to penalize consensual same-sex conduct or expression of sexual orientation.

PERSONAL STATUS LAWS

Minimum age of marriage

Articles 13 and 14 of the Family Code, Law No. 152 of 2002, provide that the minimum age of marriage for men and women is 18, but a minor can marry with the consent of a guardian or with a judge's approval if consent is not granted.

Guardianship of children

Fathers have the right to control matters related to education and cultural upbringing.

Male guardianship over women

Article 7 of the Family Code provides that the marriage is formed with the consent of both spouses and the guardian of the woman.

Custody of children

The mother has custody rights, and either parent may be granted custody after a divorce. The judge decides custody on the basis of the best interests of the child. A mother with custody loses custody if she remarries, unless a court decides it is in the best interest of the child to award custody to a married woman or if the new husband is within the prohibited degree of relationship to the child.

Marriage and divorce

Women do not enjoy equal rights in marriage and divorce. The wife owes a duty of obedience to her husband. The husband must support the wife financially. The husband may file for divorce without providing grounds. The wife may file for divorce without grounds by renouncing her financial rights.

Inheritance

Under the Family Code, Sharia rules of inheritance apply. Women have a right to inheritance, but in many cases receive less than men. Daughters receive half the share that sons receive.

Polygamy

Polygamy is permitted by Article 22 of the Family Code, subject to restrictions.

LABOUR LAWS

Right to equal pay for the same work as men

Article 137 of the Labour Code, Law No. 133 of 2006, provides a right to equal pay.

Domestic workers

No information available.

Dismissal for pregnancy

Article 114 of the Labour Code provides that it is unlawful to dismiss a woman from employment because of her pregnancy.

Paid maternity leave

Article 113 of the Labour Code provides that women are entitled to 26 weeks' maternity leave at full pay, which is paid half by the government and half by the employer.

Legal restrictions on women's work

There are restrictions on women performing arduous work. Article 112 of the Labour Code provides that women cannot work in a job that is recognized to be above their strength and female workers must be assigned suitable work for a person of their strength.