

Country	Eritrea
SIGI 2019 Category	N/A
SIGI Value 2019	N/A

Discrimination in the family		42%
	Legal framework on child marriage	50%
	Percentage of girls under 18 married	31%
	Legal framework on household responsibilities	50%
	Proportion of the population declaring that children will suffer if mothers are working outside home for a pay	-
	Female to male ratio of time spent on unpaid care work	-
	Legal framework on inheritance	50%
	Legal framework on divorce	25%

Restricted physical integrity		N/A
	Legal framework on violence against women	75%
	Proportion of the female population justifying domestic violence	51%
	Prevalence of domestic violence against women (lifetime)	-
	Legal framework on female genital mutilation (FGM)	75%
	Share of women who think FGM should continue	12%
	Share of women who have undergone FGM	83%
	Sex ratio at birth (natural =105)	105
	Legal framework on reproductive rights	50%
	Female population with unmet needs for family planning	27%

Restricted access to productive and financial resources		N/A
	Legal framework on working rights	75%
	Proportion of the population declaring this is not acceptable for a woman in their family to work outside home for a pay	-
	Share of managers (male)	-
	Legal framework on access to non-land assets	25%
	Share of house owners (male)	-
	Legal framework on access to land assets	25%
	Share of agricultural land holders (male)	-
	Legal framework on access to financial services	25%
	Share of account holders (male)	-

Restricted civil liberties		N/A
	Legal framework on civil rights	25%
	Legal framework on freedom of movement	0%
	Percentage of women in the total number of persons not feeling safe walking alone at night	-
	Legal framework on political participation	25%
	Share of the population that believes men are better political leaders than women	-
	Percentage of male MP's	78%
	Legal framework on access to justice	75%
	Share of women declaring lack of confidence in the justice system	-

Note: Higher values indicate higher inequality. Percentages range from 0 to 100, while legal variables are categorised as 0%, 25%, 50%, 75% or 100%. See data source [here](#).

Source: OECD (2019), Gender, Institutions and Development Database, <https://oe.cd/ds/GIDDB2019>.

The State of Eritrea ratified the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) in 1995. Despite ratifying the Convention, provisions have not yet been incorporated into national law and are therefore not enforceable in national courts (CEDAW, 2015). The Constitution of the State of Eritrea (1997), hereafter referred to as the Constitution, guarantees equal rights for women and men (Article 5 and Article 14). The Constitution prohibits discrimination on account of race, ethnic origin, language, colour, gender, religion, disability, age, political view, social or economic status (Article 14(2)). The Constitution grants equal rights to women in respect to key issues such as land ownership, family and marriage, equality before the law, inheritance and passing on citizenship to children. However, the Constitution has never been implemented, and national elections planned for 2001 have been postponed indefinitely. President Isayas Afwerki announced the drafting of a new constitution in 2014 without providing a time frame for the proposed reform (Freedom House, 2016). In May 2015, the Ministry of Justice of the State of Eritrea published new Civil, Criminal and Penal Codes as well as their associated procedures. The 2015 legal codes replace the Transitional Codes based on an amended version of the colonial codes adapted from Ethiopia at the time of independence in 1991.

Eritrea is culturally and linguistically diverse. The population consists of nine ethnic groups. Tigrigna account for 50% of the total population, Tigre and Kunama for 40%, Afar for 4%, Saho for 3% and Hidareb, Bilen, Nara and Rashaida for the remaining share (FAO, 2009).

1. Discrimination in the family

a) Overarching legal framework for marriage

With the implementation of the Marriage Law (1991), the legal age for marriage of women increased to 18 years (Article 56). The legal age for marriage has also been embedded in the Transitional Civil Code of Eritrea (1991) or TCCE and the Constitution (Article 22). The 2015 Civil Code does not include articles on marriage regulation. The Transitional Civil Code of Eritrea (1991) or TCCE recognizes three types of heterosexual marriage: civil, religious and customary. The TCCE has not been available for reference in its entirety. Under the TCCE, women are afforded equal marriage rights as men. Under the current legal framework marriage is based on the free consent of both partners, and needs no parental consent (Constitution of the State of Eritrea, 1997: Article 22). The TCCE prohibits bride price and abduction by law. The Constitution further asserts that men and women have the right “to found a family freely, without any discrimination and they shall have equal rights and duties as to all family affairs” (Article 22(2)).

Marriages in Eritrea are performed not only under civil law, but also under nine different forms of customary law, including Sharia law. Customary and religious law contradicts national legislation on marriage (UN 24 Jan. 2006). For example, the TCCE’s provisions on marriage, divorce, inheritance and family relations do not apply to Muslim marriages and divorces (CEDAW, 2015a; OHCHR, 2015; UN Women, 2006). Instead, Sharia Law regulates the personal status of Muslims and is enforced through separate Sharia chambers in the civil court system. Polygamy is recognised under civil law in conformity with tradition or religious usage (Penal Code of the State of Eritrea, 2015, Article 322).

Although customary laws are not officially included in the current legal framework of Eritrea, a certain flexibility in recognising certain customary practices does exist in the country (OHCHR, 2015). For example, article 520 of the TCCE states that marriage according to custom takes place “when a man and a woman perform such rites as to constitute a permanent union between them, under the rules of the community to which they belong or to which one of them belongs” (FAO, 2009). Despite being on the decline, marriages under customary law are still practiced in rural areas.

The Penal Code (2015) criminalises adultery. Both the spouse bound by a union recognised under civil law who has voluntary sexual intercourse with a person other than his spouse as well as the other person if he knows that the partner is married can be found guilty of a Class 2 petty offence, punishable with a definite term of imprisonment of not less than one month and not more than six months, or a fine of ERN 5 001 to 20 000 Nakfas (Article 323(1)).

b) Child marriage

While the minimum age of marriage according to the Marriage Law is 18 years of age for both women and men (Article 46), the TCCE recognises marriages between the age of 15 and 18 in recognition of Eritrean customary marriage practices. In addition, in case of pregnancy or birth, dispensation from the rule concerning marriage may be granted (Article 521).

With formal and customary laws not harmonized, early marriages remain widespread (Girls Not Brides, 2017). Early marriages are particularly persistent in the country’s rural areas and among certain ethnic groups. Some girls are married off by their families as young as 13 (Girls Not Brides, 2017; CEDAW, 2015a: 5; OHCHR, 2015).

Early marriage in Eritrea is driven by poverty, dowry, patriarchal ideals of purity and limited access to education (Girls Not Brides, 2017). In addition, families and girls consider early marriage as an escape for girls to avoid enrolment at the Sawa Military Training Centre, where all students complete their 12th year of education, and mandatory National Service (CEDAW, 2015a). Exemption from National Service is usually granted to women and girls who are married, pregnant or have children. There are reports that many girls drop out of school and become pregnant.

The Government of Eritrea launched the African Union campaign and a multi-sectoral national strategy to end early marriage in 2016 (Girls Not Brides, 2017).

c) Household responsibilities

The Constitution asserts that men and women have equal rights and duties as to all family affairs (Article 22.2). Sub-article 7.2 of the Constitution proclaims that “any act that violates the human rights of women or limits or otherwise thwarts their role and participation is prohibited.” Under the Constitution both parents are recognised as heads of the family. Article 45 of The Family Law (proclamation 1/1991) recognizes the equal rights and status of both sexes and keeps the interest of the children and the mother, annulling the previous colonial civil code (Article 635) that entrusted sole decision-making powers to husbands as the family heads (CEDAW, 2013). Article 204 of the TCCE provides father and mother with joint responsibility to perform the role of guardian.

Despite the legal framework recognising equal rights and duties to family affairs, discriminatory social norms and deep-rooted stereotypes regarding the roles and responsibilities of women and men in the

family and in society continue to exist (CEDAW, 2015a), placing household and caring responsibilities with women, wives and mothers.

d) Divorce

Men and women have equal rights to initiate divorce, except Muslims as TCCE's provisions on marriage, divorce, inheritance and family relations do not apply to Muslim marriages and divorces (CEDAW, 2015a; OHCHR, 2015; UN Women, 2006). Under Sharia law women are not granted equal divorce rights (CEDAW, 2015). The TCCE establishes a system of equitable division of marital property upon divorce (UN Women, 2006). In the event of divorce, the TCCE states that "the father and mother, the tutor and the guardian of the child shall be appointed by the family arbitrators" (Article 206). Article 681(2) of the TCCE states that a child up to the age of five years is to be placed in the custody of his or her mother, unless there is serious reason not to, such as insanity or abuse by the mother. Under customary laws divorces are mediated by family arbitrators. Family arbitrators act as counselling and negotiators in divorces and are encouraged by customary courts to take on the role of mending family disputes (CEDAW, 2013).

The Penal Code (2015) criminalises the failure to provide "allowances, necessities of life or maintenance" which men owes "by virtue of family rights or of a judicial decision, to his ascendants or descendants, or to his spouse, even where divorced". Penalties include a definite term of imprisonment of not less than one month and not more than six months, or a fine of ERN 5 001 to 20 000 (Article 326).

e) Inheritance

Women and men have equal rights to inherit family property (CEDAW, 2013). The TCCE states that "sex, age, nationality of heir shall not affect in anyway the ascertainment of his right to succession" (Article 837). The TCCE also acknowledges the wife's right to half of the marital property. The equal principle of inheritance does not apply to Muslim women, whose rights are governed by Sharia law. Under Sharia, women may inherit from their father, mother, husband or children, but their share is generally half of the men's share (FAO, 2009).

More

Armed conflicts and mandatory military service have resulted in family separation, with many men away from their villages and their families for lengthy periods of time. As a result, a large number of households in Eritrea are headed by women, including widows. The militarisation of society provides women with "the dual burden of producing food and providing care for their families" (CEDAW, 2013). Proclamation No.137/2003 on the Martyrs' Survivors Scheme, Proclamation No. 135/2003 on the National Pension Scheme and Proclamation No. 136/2003 on Public Sector Pension Scheme in theory provide for the rights and shares of benefits of spouses, single parents, elderly parents and children till the age of 20 years (CEDAW, 2013). Article 15(1) of Proclamation No. 135/2003 on the National Pension Scheme stipulates that single parents are entitled to 25% each and widows 50% for the retirement benefit entitlement respectively (CEDAW, 2013).

2. Restricted Physical integrity

Eritrea has formulated a National Gender policy and Action Plan alongside national development policies. The main objective of the Action Plan, covering 2003 and 2008 was ‘to achieve equal opportunities and capabilities for women, men, girls and boys of different categories to participate in and access resources, and benefit from a supportive, sustainable and appropriate economic, legal, social and political development system’. There is no information available as to whether the Action Plan has been renewed and improved beyond 2008.

The National Union of Eritrean Women (NUEW) is mandated by the government to act as the national gender machinery, coordinating and monitoring gender-related activities and to implement them (African Development Fund, 2009). NUEW disseminates information aimed at deterring violence against women, particularly FGM/C and domestic violence (OHCHR, 2015 and NUEW). However, NUEW’s is a non-governmental organization and is not provided with executive powers. Their legal status reduces NUEW’s ability to respond to the challenges (CEDAW, 2015a). In addition, insufficient human and financial resources allocated to ensure that the NGO functions adequately (CEDAW, 2015a). NUEW’s has a broad presence on the ground, but the union lacks a network of gender focal persons in the national ministries. This weakens not only their capacity but also their influence (African Development Fund, 2009).

a) Violence against women

Eritrea has not put in place comprehensive legislation that explicitly criminalizes all forms of violence against women (CEDAW, 2015a).

Violence against women and girls is widespread in Eritrea, not only in the domestic sphere, but also in the context of the mandatory National Service (CEDAW, 2015a; OHCHR, 2015). Eritrean society has become militarised through the mandatory national service programme placing men (and women) in the armed forces for indefinite lengths of time (OHCHR, 2015). A report by the UN Office for the High Commissioner for Human Rights found that the militarisation and use of violence to control the population is an underlying structural cause of the acceptance of violence in society, particularly against women (OHCHR, 2015). Allegations of violence against women in the context of national service are rarely investigated and seldom prosecuted (CEDAW, 2015a; OHCHR, 2015).

Mechanisms of redress, rehabilitation and compensation for women who are victims of violence and on assistance to and protection of witnesses seem to be non-existent (CEDAW, 2015a) There is no evidence of services such as health care, counselling centres, legal assistance, shelters, restraining orders and financial aid (OHCHR, 2015).

Persistent cultural and social norms mean that female survivors of violence, particularly sexual violence, often face stigma and shame. Most women will feel reluctant to report incidents of gender-based violence to the authorities because issues of sexual violence are not openly discussed in Eritrean society. A lack of impartial and effective legal services prevents them from reporting acts of violence (OHCHR, 2015). In addition, the protections provided under the legal framework are not upheld in practice (OHCHR, 2015), creating an atmosphere of impunity which leads to further acts of violence against women (OHCHR, 2015).

b) Domestic violence

There is lack of specific legislation addressing domestic violence in Eritrea (OMCT, 2004). Sexual assault between spouses is punishable only where the spouses are not living together in the same household under circumstances which do not show a mutual agreement or understanding between the spouses not to live together in the same household temporarily (Penal Code 2015, Article 303(2)). This effectively relieves a husband who rapes his wife of criminal responsibility when they are living together, heightening the risk of violence in the home (OMCT, 2004). There is a lack of government services to assist survivors of domestic violence, with no safe houses or rehabilitation services in place, and there is no effective framework to receive complaints and prosecute cases (OHCHR, 2015; OMCT, 2004).

Domestic violence is reported to be pervasive, which can be explained by the traditional views of women's place and role in society, the militarisation of society, the resulting pressures on the family and the abundance of weapons in society. Police are reportedly unwilling to act on reports of domestic violence or to provide assistance to victims (OHCHR, 2015). Instead, traditional and religious leaders are often called upon to mediate in domestic violence cases (CEDAW, 2015a). Women are not aware of their rights or cannot speak publicly about the crime because of societal pressures (OMCT, 2004).

c) Rape

Rape is punishable under the 2015 Penal Code with a maximum sentence of imprisonment of up to 10 years (Article 307). Aggravated rape is punishable for up to 16 years (Penal Code, 2015: Article 308). Rape, sexual slavery, enforced prostitution, forced pregnancy among other forms of sexual violence in the context of war crimes against civilian population (Penal Code, 2015: Article 109(2t)) and the context of crimes against humanity (Penal Code, 2015: Article 108 (1e)) are punishable up to 27 years. Despite this legal framework, reports that women performing national service are frequently victims of sexual violence, including rape, committed by officers and male recruits (CEDAW, 2015a). Reportedly, women in detention in Eritrea are subjected to multiple forms of violence, including sexual violence, by male guards. Cases of violence against women in detention are not adequately prosecuted (CEDAW, 2015a).

d) Sexual harassment

The 2015 Penal Code criminalises sexual assault with imprisonment between one to three years (Article 303(1)). The definition of sexual assault includes assault of a sexual nature against another person "having regard to the part of the body touched, the nature of the contact, the situation in which it occurred, the words and gestures accompanying the act and all other circumstances surrounding the conduct" (Article 303(1)). The legislation covers educational facilities. Sexual assault may only be prosecuted upon the preferring of charges by the victim (Article 303(3)). Aggravated sexual assault is punishable between three and five years (Article 304).

e) Female genital mutilation

Female genital mutilation (FGM) is illegal in Eritrea. A National Strategy on Female Genital Mutilation Abandonment was formulated in 2006. Proclamation 158 /2007: A Proclamation to Abolish Female Circumcision rendered FGM a criminal offence in 2007. The practice is now punishable by imprisonment of six months to one year and fines of up to ERN 3 000 for those who carry it out,

request, incite or facilitate it or conceal information about its practice (Proclamation 158 /2007: Article 4). The Ministry of Health works with four other ministries of government, local government at the *zoba*, *sub-zoba* and *kebab* levels and collaborates with the mass media and civil society organisations to increase awareness on FGM/C (UNICEF, 2012).

FGM is practiced among all the ethnic and religious groups, yet there are different kinds of FGM procedures varying according to religion, ethnic group, traditional norms and location (UNICEF, 2012). However, especially among certain ethnic groups and in rural areas the practice is more widespread. FGM in Eritrea is also connected to economic status and wealth (CEDAW, 2015a; UNICEF, 2013). However, there seems to be a decline in FGM prevalence rate among the young girl population (CEDAW, 2015a).

f) Abortion

The Penal Code (2015) divides abortion into three categories: forcible (Article 281), unlawful (Article 282), and permissible abortion (Article 283). An unlawful abortion can see the pregnant women punished with a definite term of imprisonment of not less than one year and not more than three years (Article 282(1)). However, the Court may decide to unrestrictedly reduce the penalty or may impose no penalty on the pregnant woman where the pregnancy has been terminated on account of an exceptionally grave state of physical or mental distress, especially following rape or incest, or because of extreme poverty (Article 282(3)). Abortion is permitted in situations where a physician can certify that the pregnancy is the result of rape or incest (Article 283(a)); the termination is performed on a girl under the age of 18 years (Article 283(b)); the pregnancy might endanger the physical or mental health of the woman and it is impossible to avert in any other way (Article 283(c)). However, in such cases there needs to be certification of the existence of rape or incest from a Court (Article 283(3a)). However, there is neither the support system, nor the environment in society for women to openly admit to being raped.

There is no reference in the Penal Code (2015) or other information available on the maximum number of weeks by which a woman can seek a legal abortion. The law or policies do also not provide concrete guidance on when medical personnel should proceed with an abortion (CEDAW, 2015b). In addition, there is a lack of specific guidelines on safe abortion procedures and therefore safe and confidential abortion and post-abortion services are lacking (CEDAW, 2015a), leading to high numbers of unsafe abortions outside of the health system (CEDAW, 2015b).

Although the government formed the Family Planning Association in 1992, the general population reportedly remains unaware of family planning options. In addition, women are said to not have adequate access to affordable, modern methods of contraception (CEDAW, 2015a), resulting in a low rate of modern contraceptives use (CEDAW, 2015a).

More

A large and increasing number of Eritrean women and girls, including unaccompanied children, alongside men, flee the country to neighbouring countries and beyond, to avoid national service (CEDAW, 2015a; OHCHR, 2015). As a result, women increasingly become victims of violence, human trafficking and smuggling (CEDAW, 2015a; OHCHR, 2015).

3. Restricted Access to productive and financial resources

a) Secure access to land and assets

The land framework legislation is comprised of Land Proclamation No. 58/1994 of 1994 and Proclamation No. 95/1997 and Legal Notice No. 31/1997 of 1997. The basic tenet of land policy is that all land is owned by the state; therefore, every legal right on land must be granted by the government (Land Proclamation No. 58, 1994: Article 3). Besides state property, the law recognizes three main types of land rights: usufruct on land in farms, housing land in rural areas – *tiesa* – and leasehold (FAO, 2009).

The TCCE and the 1994 Land Proclamation No.58/1994 (Article 4) provide for equal access to land and equal capacity for owning it (CEDAW, 2013). The Land Proclamation guarantees all Eritreans above 18 years of age (Article 7), without discrimination on the basis of race, religion or gender, the right to access land based on the usufruct principle (Article 4). Land Proclamation 58/1994 aims to ensure all Eritreans residing in the rural areas have equal access to land; both for agricultural activities and for housing. The Constitution asserts that any citizen shall have the right, anywhere in Eritrea, to acquire, own, and dispose of all property individually or in association with others and to bequeath to his heirs or legatees (Article 23(1)).

Customary tenure system is based on two types of land ownership: *tsilmi* (the extended family) and *diesa* (village). Customary land tenure systems and the norms regulating them are recognised by the Land Proclamation No. 58/1994 (FAO, 2009). *Tsilmi* land is held in quasi-absolute ownership for life, by a man, wife and unmarried children. Upon marriage, a son applies for new land, through his father, to the family council charged with the administration of hereditary lands (FAO, 2009). Customarily, when women marry, they are excluded from a share of their own ancestral land as they move to their husband's village and share his land (FAO, 2009; Tekle, 1998: 2). The land rights of married women are often subsumed under male household heads when land is allocated and registered (GI-ESCR, 2015).

Sharia law governs inheritance rights in some instances, leaving Muslim women vulnerable to discrimination. The position of women in polygamous marriages is unclear as husbands can claim land for one wife only (CEDAW, 2015a; GI-ESCR, 2015).

Women in general may also risk losing access to land and other resources because of non-participation in National Service through marriage (UN Women, 2006) or when their husbands leave the mandatory, indefinite military service and either hide within the country or flee across the border.

Women heads of families, single women, divorced and widowed women and, women who passed the marriageable age (above 30), as well as disabled women, are entitled to land on their title (CEDAW, 2013). The Constitution asserts that any citizen shall have the right, anywhere in Eritrea, to acquire and dispose property, individually, or in association with others, and to bequeath the same to his heirs or legatees (Article 23).

The National Union of Eritrean Women reports that negative attitudes of local authorities towards women's land rights prevents the principle of gender equality being implemented in practice (CEDAW, 2015a; GI-ESCR, 2015) For example, land distribution committees are reportedly biased against married women's right to land. In other instances, women may lack the means of working the land,

with some regions and ethnic groups upholding strict cultural norms which do not allow women to clear land (GI-ESCR, 2015).

b) Secure access to formal financial resources

There are no legal restrictions on women's rights in opening bank accounts and loans, mortgages and in accessing other forms of financial credit. Banks and other financial institutions apply financial or collateral criteria equally to women and men when providing loans (CEDAW, 2013). However, for married couples to enter into a mortgage contract for real estate or other investment either of them is required to obtain the written consent of the other (CEDAW, 2013).

Several credit and saving schemes operate nationally and at region administrative levels (CEDAW, 2013). The provision of credit by the Saving and Micro Credit Programme implemented by the government in the six administrative regions gives special focus to assist women to establish small and medium enterprises and thus improve their economic conditions and that of their families (CEDAW, 2015a). Saving and Micro Credit Program (SMCP) is aimed at promoting small and medium businesses that are principally geared to enhancing self-employment. More than 30% of the beneficiaries are women and women headed households (CEDAW, 2013). There are other micro credit programmes implemented by various institutions, and these are specifically targeting women. This includes the programme of the NUEW, the Ministry of Local Government, Ministry of Labour and Human Welfare (MoLHW), the National Confederation of Eritrean Workers (NCEW) and some local governments in some regions (CEDAW, 2015a).

c) Workplace rights

The Constitution stipulates that "every citizen shall have the right to participate freely in any economic activity and to engage in lawful business" (Article 23(2)). According to Articles 23(4) and 118(7) of the Labour Proclamation of Eritrea (2001) an employer shall not discriminate on grounds of race, colour, social origin, nationality, sex, political orientation or religion. It further provides that an employer has no right to justify the termination of employment merely depending on an employee's race, colour, nationality, sex, religion, lineage, pregnancy, family responsibility, marital status, political orientation or social status (Article 65).

The state of Eritrea offers 60 days maternity leave to be paid by the employer (Labour Proclamation No. 118/2001: Article 65(2)). The maternity leave is paid in full by the employer. There is no mentioning of paternity or parental leave in the Labour Proclamation. Employment of women in night work or certain types of employment is not prohibited, but pregnant employees are not allowed to work at night and over time (Article 67(1-3)). A pregnant employee is entitled to transfer to safer jobs receiving the same wages and to become reinstated to her former job at the end of her maternity leave (Article 67(1-3)). A pregnant employee is safe from termination of contract while in maternity leave or sick leave arising from her pregnancy or confinement (Article 67.3). In addition, an employee's race, colour, nationality, sex, religion, lineage, pregnancy, family responsibility, marital status, political orientation or social status are non-legitimate reasons to terminate a contract of employment (Article 23.4).

The Labour Proclamation stipulates that it is the obligation of the employer to respect the employee's, both women and men workers, dignity (Article 20(3)). This vague language does not properly address sexual harassment and violence against women in the workplace.

Although government policy is formally supportive of free enterprise, and citizens are in theory able to choose their employment, establish private businesses, and operate them without harassment (Freedom House, 2016), all “able-bodied” women and girls, like men and boys, are recruited into mandatory national service for an indefinite period without formal pay, reportedly amounting to forced labour (CEDAW, 2015a).

46% of the labour force is female, with the majority of women employed in low-skilled and low-paid jobs (CEDAW, 2015b). Women who are unofficially excused from military services after getting married or giving birth, are concentrated in non-skilled and low-paid jobs (CEDAW, 2015a). Because women are often unofficially excused from national service, they run the risk of being caught up in *giffa's*, or round-ups of people thought to be evading national service. The government imposes collective punishment on the families of deserters, forcing them to pay fines and putting them in prison if they cannot pay (Freedom House, 2016).

4. Restricted Civil liberties

a) Citizenship rights

In theory, nationality laws apply equally to men and women (Nationality Proclamation No. 21, 1992). Men and women have equal rights to apply for residence documentation and passports. Also in theory, women have equal legal rights to men with regards to movement of persons and the freedom to choose their residence and domicile (Constitution, 1997: Article 19; Transitional Civil Code, 1991: Article 12 and 13). TCCE provides married couples with the right to choose residence for both spouses stating that the common residence shall be chosen by common agreement of the spouses. Women may apply to family arbitrators for resolution in case a conflict arises between spouses regarding the choice of common residence (CEDAW, 2013).

However, in practice, freedom of movement, both inside and outside the country, is tightly controlled. To move inside the country, people in the military service below the age of 50 need to obtain travel permits from their designated departments. People travelling without the correct documents face imprisonment. Women are generally, but often unofficially, dismissed from the National Service after marrying or becoming pregnant, and are therefore rarely given formal discharge papers, impacting their access to travel permits and restricting their freedom of movement. Eritreans under the age of 50 are rarely given permission to go abroad and have limited ability to apply for a passport (Freedom House, 2016).

Article 623 of the Criminal Law has made birth registration mandatory. Almost all births in hospitals and clinics are registered and birth certificates provided (CEDAW, 2015a; UNICEF 2017) and measures have been taken to make birth registration part of the municipal functions in the urban and semi-urban areas (CEDAW, 2013). While Village administrations in rural areas have started keeping birth registers (CEDAW, 2013) challenges remain in registering births in rural areas (CEDAW, 2015a). Churches and mosques perform registrations of birth as part of their religious duties during baptism ceremonies (CEDAW, 2013). As birth registration is a condition to access nationality, education, health services, social services and employment, children who are not registered are at risk of statelessness and limited access to basic social services (CEDAW, 2015a).

In theory, men and women have equal rights to vote (Eritrean Electoral Law, 2002: Article 18; Constitution, 1997: Article 30 and 31) and be voted for (Eritrean Electoral Law, 2002: Article 20). However national elections have been postponed (OHCHR, 2015) and therefore in practice, women (like men) have been unable to vote and run as candidates for the National Assembly since the country gained independence from Ethiopia in 1991 (CEDAW, 2015a).

c) Political voice

Eritrea applies temporary special measures to ensure that women are represented in legislative and judicial bodies (Electoral Law (2002) Article 12, 13 and 14). 30% of Assembly seats are reserved for females (2015b). Women have equal rights to contest in the remaining 70% of Assembly seats (Electoral Law (2002: Article 12.4). However, this only applies to women affiliated with the People's Front for Democracy and Justice (PFDJ), as women need to be a member of the ruling party in order to be elected into any political or public position (CEDAW, 2015b). Article 10(2) of Proclamation No. 86/1996 to Provide for the Establishment of Local Governments states that Affirmative action is to be considered as a policy in order to ensure fair gender representation (Article 3a; CEDAW, 2013). No measures have been put in place at the local level (CEDAW, 2015b). A third of community court judge seats and one place in all sport federations are reserved for women (CEDAW, 2015b).

Political organisation in Eritrea is restricted to the PFDJ (HRW, 2013). The Eritrean Parliament had been suspended since 2002 and the Government operates on pre-constitutional powers (CEDAW, 2015b). Gatherings of more than seven unrelated people are forbidden. The formation of NGOs is only allowed when organised by the PFDJ (HRW, 2013). The absence of a functioning democracy and civic society in Eritrea negatively impacts the rights of women, including the advancement of women in national policy making (CEDAW, 2015b).

d) Access to justice

Women have equal access in exercising their rights in all legal matters (CEDAW, 2013). The legal framework in place treats women equally to men in all stages of procedures in courts and tribunals (CEDAW, 2013; Criminal Procedure Code of the State of Eritrea, 2015: Article 8). Women can freely choose to appear in courts in person or use the services of attorneys (CEDAW, 2013, Criminal Procedure Code of the State of Eritrea, 2015). Women are free to work in the judicial system in any capacity (CEDAW, 2013).

Women are represented in various court functions and ranks, including performing as magistrates in the High Court, lawyers, registrars, legal advisors and attorneys-at-law (CEDAW, 2013).

Proclamation 167/2012 provides Community Courts with similar jurisdiction as Civil Regular Courts over cases dealing with movable and immovable property: land related cases, marriage related cases, and succession. Knowledge of law or legal career is not a requirement for Community Court judges – as Judges are elected by their communities and do not require knowledge of the law. Community Courts in Eritrea use local norms and custom of the society in resolving disputes, allowing disputants to present their case in their local language and manners customary to their ethnic group. Zoba Courts, or regional courts use statutory law, while adjudicating cases decided by Community Courts on bases of customary law in appeal. High Court judges determine the validity of statute-based decisions of

Zoba Court on custom-based decisions of Community Courts using statutory laws (Dirar and Tesfagabir Teweldebirhan, 2015).

Despite the legal framework in place, women (like men) face institutional, social, economic, technological obstacles in gaining access to justice.

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