Eritrea

1. Discriminatory family code

The Transitional Civil Code recognises three types of heterosexual marriage: civil (article 518), religious (article 519) and customary (article 520). While the minimum age of marriage according to the revised marriage law (1/1991, article 56) is 18 years of age, the Civil Code also recognises marriages between the age of 15 and 18 in recognition of Eritrean customary marriage practices. The government also notes in its latest report to CEDAW that, traditionally, registration of civil birth and marriage registrations has been uncommon, although civil registrations have recently voluntarily been conducted in some municipal areas.

While on the decline, marriages under customary law are still widely practiced in Eritrea, particularly in rural areas. According to the National Union of Eritrean Women forced early marriage is also common in rural areas, with some girls being married off by their families as young as 13.

The Constitution accords equal rights to both spouses, including with regard to parental authority. However, it is unclear whether women can be the official head of the household. Customary laws of Eritrea also determine the custody of children after divorce. In practice, this is often dependent on the age and sex of the child. For example, the Tigrinya customary law provides that a child below three years is placed in the custody of the mother. If the child is over three, the father becomes the guardian of a female and the mother of the older male.

In its latest report to CEDAW, the government reported a slight increase in the number of cases of matrimonial dispute filed by women in civil court between 2006 and 2008 – in 2006, there were 223 cases for child support filed, increasing to 279 in 2008 – perhaps an indication that custody in divorce cases is increasingly going to women.

According to the government’s latest report to CEDAW, non-discrimination in relation to inheritance rights is addressed both in the draft civil code and the Transitional Civil Code (article 837) and equal
rights to inheritance and property are also granted under article 23 of the Constitution.\textsuperscript{11} However, Sharia law does govern inheritance rights in some instances. According to the Food and Agriculture Organisation, in these cases, “women may inherit from their father, mother, husband or children and, under certain conditions, from other family members, but their share is generally only half of that to which men are entitled.”\textsuperscript{12}

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Both women and men can initiate \textbf{divorce} in Eritrea.\textsuperscript{13}

\section*{2. Restricted physical integrity}

In Eritrea, violence against women is defined as a crime under the Transitional Penal Code, including rape, which is included in the Penal Code.\textsuperscript{14} However, the government acknowledges in its latest report to the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) that “no specific evidentiary and procedural provisions of the procedure code and other codes [which] deal with the cases of violence against women.”\textsuperscript{15} The US Department of State describes violence against women and girls as “pervasive” in Eritrea,\textsuperscript{16} although underreported.

An African Development Bank study of women who experienced \textbf{domestic violence} found that nearly half (46\%) kept their experience of domestic violence a secret and less than a quarter (21\%) reported their husbands to the police.\textsuperscript{17}

The government did note, in its latest report to CEDAW, that the number of cases of violence against women in the court system had increased between 2006 and 2008 (the latest data given), with 257 cases of \textbf{rape} reported in 2006, up from 132 in 2006.\textsuperscript{18} However, the government also includes the crimes of “sexual outrage and seduction” as well as “adultery”, and the data is not gender disaggregated, nor is it clear whether women tend to be punished more harshly in those cases.\textsuperscript{19}

Although rape is illegal in Eritrea, the Penal Code\textsuperscript{20} provides that if the perpetrator marries the victim with consent the prosecution of the rape does not continue,\textsuperscript{21} and additionally, spousal or marital rape is not illegal, since the Code defines rape as an act “outside of wedlock”.\textsuperscript{22} According to the African Development Bank, the practice of perpetrators of rape marrying their victims is favoured by some parents as it protects the “honour” of the woman and her family, and some perpetrators may seek to marry their victims to escape prosecution.\textsuperscript{23}

Articles 23(4) and 65 of the Labour Code protect women in the workplace from \textbf{sexual abuse or harassment}.\textsuperscript{24} It is unclear how this legislation is enforced, or how and to what extent perpetrators...
may be penalised. According to the US Department of State’s 2012 report on human rights in Eritrea, no one had been prosecuted for sexual harassment in that year or previously.  

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Women’s physical integrity in Eritrea is also infringed by limited reproductive choices. Abortion is illegal in Eritrea in most instances, except in cases where the woman’s life is in danger, to preserve a woman’s physical or mental health, or in cases of rape or incest. The most recent Demographic and Health Survey in Eritrea found that only 8% of married women were using contraception and that 29% of women had an unmet need for family planning.

Dowry payments and honour crimes have also been identified as forms of violence that are experience by women in some parts of the country.

3. Son bias

The male/female sex ratio for the working age population (15-64) in 2013 is 0.96 while the sex ratio at birth is 1.03. There is no evidence to suggest that Eritrea is a country of concern in relation to missing women.

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The ratio of female to male school enrolment is 84% for primary education and 80% for secondary education in 2012, suggesting that gender equality in primary and secondary education is yet to be achieved. Affirmative measures that have been in place include provision of economic incentives for parents in remote areas who send daughters to schools. In order to enhance female participation in higher education and offset the gender gap, girls are accorded greater opportunities by lowering their entrance exam score requirements compared to boys.

4. Restricted resources and assets

The Land Reform Proclamation (58/1994) gives every citizen the right to use land. The Eritrean People’s Liberation Front established a policy on land redistribution to improve women’s access to land by granting extensive land rights to divorced, widowed and childless women. However, land has been inequitably distributed by the government, in some cases widely so. The government’s latest report to CEDAW states that, between 1995 and 2005, the Department of Land distributed land to 25,618 women (compared to 41,326 men) for housing, to 326 women (compared to 2,095 men) for agriculture, and 1,189 women (compared to 2,677 men) for commercial enterprises.

According to the government’s latest report to CEDAW, land law grants women equal access and rights to land for all purposes. However, the distribution of land is in most cases handled by land

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25 US Department of State (2013)
26 Penal Code, Section II, Article 529; UN DESA (2013)
28 OMCT (2003), p. 207
30 World Bank (n.d.)
31 CEDAW (2012), p. 6
32 CEDAW (2012), p. 7
33 African Development Bank (2009), p. 10
34 CEDAW (2012), p. 58
35 CEDAW (2012), p. 33
distribution committees at village level and 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. 36 The land rights of married women are often subsumed under male household heads when land is allocated and registered. The position of women in polygamous marriages is also unclear as husbands can claim land for one wife only. Many women also lack the means of working the land and face specific difficulties, especially in regions in which cultural norms prevent women from clearing land. 37

With regard to access to non-land assets, Eritrean women have equal rights to conclude contracts, administer property and run businesses. 38 In 2003, 41% of all business licenses issued in the Central Region of Eritrea over the previous five years were to women. 39

There are no laws that discriminate against women with respect to access to credit. 40 The Government’s Savings and Micro Credit Programme is the largest micro-credit provider in the country, and approximately 40% of its customers were women in the years for which data is most recently available (2005-2008). 41

5. Restricted civil liberties

There are no reported legal limitations to women’s access to public space. In its 2013 letter to the Human Rights Council, Amnesty International reported instances of arbitrary arrest and detention in Eritrea on a vast scale, with at least 10,000 political prisoners detained since its independence. 42 This indicates that, despite technical legislative rights to free movement, women (and men) currently do not enjoy full freedom of mobility in Eritrea.

In the area of political voice, Eritrean women have a history of participation in political processes through the National Union of Eritrean Women (NUEW) which was formed in 1979 during the struggle for independence in order to mobilise women. The NUEW became an NGO in 1992 and is the now national machinery for the advancement of women; however it is not a formal department part of the Government. 43

With respect to political participation, Eritrea has a legislated quota for women in decision-making, reserving 30% of seats for women in provincial and district administration and in national parliament. 44

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In terms of participation in the paid workforce, Eritrean women enjoy constitutional rights to work and are protected from discrimination through the Labour Proclamation No. 118/2001. 45

Eritrea offers 60 days maternity leave to be paid by the employer. 46

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36 African Development Bank (2009), p. 10
37 African Development Bank (2009), p.16
38 Constitution, article 21; CEDAW (2012), p. 26
40 CEDAW (2004), p. 41
41 African Development Bank (2009), p. 13
42 Amnesty International (2013)
43 African Development Bank (2009), p. 7
44 Electoral Law 2001, articles 12.4 and 17.2; The Quota Project (2013)
45 Constitution, Articles 14(2), 7(2), 9(7), 21(3), 19(6); CEDAW (2012), p. 26
46 Labour Proclamation, 2001; ILO (2011)
Sources


