

Gender: Eritrean People's Liberation Front and Eritrean government initiatives

Focus is given here to a description of activities concerning women's position and the gender initiatives undertaken between the mid 1970s and 1991, firstly by the Eritrean People's Liberation Front (the EPLF) during its conflict with Ethiopia and secondly by the post-liberation governments (a transitional government between liberation in May 1991 and 1993, and the current government thereafter, once independence had been ratified. This document addresses events to early 2001).¹ In many cases there is little or no documentation available regarding people's responses to such actions during the liberation struggle; such information as exists is set out here, and consideration given to emerging issues of gender equality in the light of previous and current action by those in power. The concluding comments point out certain topics remaining to be addressed by both government and the general population (with its many interest groups and varying perceptions) if post-liberation policy is successfully to be translated into practice.

1. Gender Initiatives undertaken by the EPLF during the Liberation Struggle

The EPLF position

The attention given by the EPLF Central Committee and its forces (the Eritrean People's Liberation Army: the EPLA) to gender roles and relations and its attempts to bring about greater gender equality represent an unusual commitment in times of war. One major EPLF initiative within its overall programme of social, economic and political reform, both among its forces and the populations in the liberated areas (outside Ethiopian control), was the promotion of gender equality as an integral element of change and liberation. It is noteworthy that this initiative was devised during the early years of the war (from 1975-1977) and adhered to throughout the conflict. It is relevant to consider the initiatives promulgated and implemented by the EPLF in the liberated areas during the struggle in some detail, because the ethos behind such policies is claimed to continue to inform and mould all areas of post-independence government-directed proposed and actual reform on gender issues.

For example, certain EPLF laws have been incorporated into the legal codes of Eritrea (e.g. the 1977 Marriage Law now forms part of the Family Law). Others await final ratification, either as elements of new laws or as part of those amended from the Imperial Civil Code of Ethiopia that continue to have a degree of legal jurisdiction (e.g. gender-specific articles included in the Labour Law, which has not yet been finally ratified by the government). These and other legal instruments and measures are discussed below.

It is important to consider the history of such initiatives, for three main reasons: firstly, because the EPLF was reconstituted at the Third Congress in 1994 as the People's Front for Democracy and Justice: this is presently the sole party of government. There is often clear continuity of objective and approach. Secondly, because these laws and initiatives illustrate the unique opportunities for gender equality present within Eritrea. Thirdly, and crucially, because such attention serves to highlight the distance which continues to exist between policy and practice in terms of actual gender equality and

¹ This document constitutes a historic document; it does not discuss government and other bodies' activities and legal actions after mid-2001. As such it does not address the significant challenges and changes to nascent GSE democratic institutions that have occurred in the past eight years; nor does it consider the gender implications of those.

perceptions of appropriate gender roles and expectations within the general population as opposed to those who formulate and seek to implement policy.

“One of the most distinctive features of the Eritrean revolution was the change it brought about in the lives of many women... By the mid-1970s the EPLF was firmly committed to women’s emancipation and supported women’s rights to participate as free individuals in the struggle and the construction of a new Eritrea on an equal footing with men... Rather than trying to promote gender equality by administrative fiat, the EPLF generally took a gradualist approach that relied heavily on persuasion... According to President Isaias, the EPLF attempted to... build on the practices and ‘models’ of those indigenous groups where women have ‘strong roles’ (as among the Kunama and Afar) rather than importing abstract concepts from the outside”²

The EPLF National Democratic Programme 1977/1987

The EPLF put forward a National Democratic Programme at its first National Congress in 1977 and restated its position at the Second Congress in 1987. Women made up 11% of the delegates to the First Congress. At this time it was reiterated that the aim of the EPLF was to “assure women full rights of equality with men in politics, the economy and social life and that they receive equal pay for equal work”.³ Among the other objectives discussed in 1977 with regard to achieving greater gender equality were the following points:

- That a broad programme be devised to free women from domestic confinement and to raise their political, cultural and productive capabilities and capacities;
- That a union (which became the National Union of Eritrean Women: *Hamade*) should be created so that women can participate in the struggle for national liberation and social transformation;
- That marriage and family law should be promulgated to safeguard the rights of women;
- That programmes should be designed to increase the numbers and upgrade the quality of women leaders and public servants;
- That specific provision and protection be given to women and children in terms of maternity leave, delivery, nursery and childcare services;
- That attention should be given to the eradication of prostitution; and
- That the rights of women not to engage in work harmful to their health should be respected⁴

Creation of the National Union of Eritrean Women

The National Union of Eritrean Women is an indication of the commitment shown by the leadership of the EPLF to gender issues. Its specific remit was to conduct mobilisation, politicisation and sensitisation campaigns, and to increase the overall participation of

² World Bank 1996: p11.

³ UNICEF 1996: p26.

⁴ Adapted from the NDP 1987; also cited in Wilson 1991: p172.

civilian women in the liberation struggle. In addition it campaigned for increased female participation in education, for the implementation of the EPLF Marriage Law and other measures, and for health initiatives at local level. During the struggle NUEW coordinated and very much led the activities of local-level women's associations and encouraged the participation of members in wider activities.

"Women's mass associations allowed their members political representation from village to national level. Locally based branches provided a platform on which the concerns of women could be discussed with a view to influencing local policy. In theory, local concerns would, in turn, eventually feed into national-level policy formulation".⁵

EPLF Laws and Policies

The EPLF promulgated and attempted, with varying success, to institute a number of new laws and policies in the liberated areas of Eritrea that had the specific objective of promoting women's equality and enhancing women's rights. Chief among these was the 1977 EPLF Marriage Law whose rationale was the achievement of a "democratic marriage law, based on the free choice of both partners, monogamy, the equal rights of both sexes, and legal guarantees of the interests of women and children". Silkin discusses the fact that marriage was prohibited for members of the EPLF before 1977; after that date it was permitted, but couples were actively encouraged to live together for a year before marrying, in order to see whether they were genuinely well suited. "Promoting pre-marital sexual intimacy not only explicitly encourages responsible decision-making in marriage, it also implicitly undermines marriage as a family alliance, for it uncouples female sexuality and family honour".⁶

Apparently many of those living in the liberated areas viewed such activities with disquiet and suspicion.⁷ Initiatives as radical as these have not been carried forward into post-war society; no mention is made of such actions in government documents.

Harmful traditional practices

The eradication of certain harmful traditional practices, primarily Female Genital Mutilation (FGM), in its most severe form, infibulation, was a main plank of EPLF initiatives. It was decided that while clear health reasons could be given for the abolition of infibulation, too much stress on eradicating clitoridectomy and excision might cause considerable resentment. Silkin posits that such action "would [have taken] the argument beyond women's health and into the sphere of women's rights to, and capacity for, sexual pleasure, which would alienate the people from [accepting] the more moderate reform".⁸

⁵ Silkin 1983: p912.

⁶ 1989: p152.

⁷ This subject is contentious and little discussed in Eritrea. However, certain research studies undertaken since liberation in those areas where the EPLF was active, most notably by Kane *et al* 1995, indicate a certain return to traditional ways once the close attention of the EPLF was withdrawn after May 1991. Thus girls' enrolment and retention in primary school has not remained constant but decreased. Personal communication from rural communities in the new Northern Red Sea and Gash Barka regions, i.e. former 'liberated areas' indicates that infibulation has increased since liberation and is often performed on teenage girls (specifically to 'catch up'), with reported grave health consequences and occasional fatalities.

⁸ 1990: cited in Wilson 1991 p138.

Access to and use of land

Agrarian reform was also instituted by the EPLF in the liberated areas, the central aim being the abolition of customary forms of land ownership, usufruct and tenure, all of which discriminated against women. Whatever the local system, it was claimed that women everywhere in Eritrea were excluded from any ownership or genuine control, except possibly in certain very specific circumstances. Such practice was deemed clearly to reinforce women's dependence on male kin. Thus the agrarian reform sought not only to enable women to own land but also to be involved in village and local assemblies where decisions on land use would be taken. Various elements of these reforms have been carried forward into the 1994 Land Proclamation.

Women's Participation in the EPLF

Towards the end of the war women made up ca. 35-40% of the entire EPLF membership; Pateman estimates that women constituted 25% of frontline troops in 1990.⁹ This translates in numerical terms by the end of the war to some 20,000 female fighters and perhaps 3,000 female militia members.¹⁰ While the promotion of gender equality was intrinsic to the EPLF's stated programme of social and political reform, relatively few women were to be found in the higher echelons of command, although a number were 'Merahit Botoloni' (a team leader for 150 fighters) and 'Merahit Ganta' (a team leader for 300 fighters), and a number of women served on the Central Committee. Such circumstances might suggest that participation in employment within the EPLF continued to be influenced to a limited degree by the historical and cultural legacies of gender stereotypes, despite initiatives specifically to the contrary. The fact that women represented ca. 8.3% of qualified doctors and 43% of barefoot doctors is clearly primarily a reflection of prior access to educational opportunities.

This is also relevant when other occupational tasks are considered: women's peacetime participation in employment beyond domestic service and small-scale manufacture was limited, and continues to be so to this day. To counteract such gender-specific occupation in the EPLF, training was given on a gender-equal basis in many areas such as vehicle mechanics, electronics and pharmaceutical manufacture. Nonetheless, it appears probable that a certain amount of gender stereotyping persisted, despite initiatives to the contrary. Available statistics seem to indicate that occasional gender division of labour continued during the war years; this was at times and in certain circumstances presumably dependent not only on traditional mores and perceptions but also on differentiation between women and men in terms of education. In this context it is relevant to note that while it has been estimated that 90% of all Eritrean women were illiterate, the corresponding figure for men was 80%. A higher proportion of illiterate people was to be found in the rural areas, which is also where the EPLF recruited most of its forces. Therefore, in certain circumstances there would have been little differentiation between women and men in terms of illiteracy; the main variation would have been in completion of primary and secondary education, and access to higher education. It has been suggested that 15% of the total female membership of the EPLF were students (unspecified as to level of education) or urban workers while the remainder were from peasant or pastoralist backgrounds. Female fighters' relative lack of education and narrow work experience must have constituted a significant factor in limiting their access to completely equal participation in all areas of the struggle.

⁹ 1990: p465.

¹⁰ Ministry of Defence: Office for Fighter Demobilisation: 1993.

Furthermore, while overt inequality is likely to have had limited scope for expression, customary perceptions must have carried weight in a number of circumstances.

NUEW provides the most thorough, albeit sparse, source of data on women's participation in the EPLF; its database represents the most complete information set on the role of women in the liberation war. Its statistical analysis of employment of women indicates those areas in which women were involved and the extent of their participation.

Table 1: Women's participation in the EPLF by employment sector (1970-1993), by percentage of total ¹¹

Combatants	23.0
Public administration	35.0
Industry	29.5
Transportation	25.9
Health	55.2
Construction	19.6
Agriculture	19.8
Electronics	25.0
National guidance *	1.7
Finance	9.5
Communications	33.1
Total membership	35 – 40

* Occupations such as journalism, teaching, broadcasting, news writing and documentation

2. Post-liberation governmental initiatives and instruments that specifically address gender issues

Since *de facto* independence in 1991 the government of Eritrea has reiterated its position regarding gender issues in a number of policy statements and documents. In addition the government has acceded to The UN Convention on the Elimination of All Forms of Discrimination Against Women.

A common feature of most of the Eritrean documents is the recognition that although considerable advances were made during the liberation struggle, there remains a very great deal to achieve and that there is absolutely no scope for complacency. However, in line with the wartime EPLF position that change cannot be imposed but must rather develop from within society, there is greater stress placed on individuals' and communities' own self-generated attention to gender equality than to initiatives imposed or enforced by government. While this stance is laudable in theory, its realistic and practical application remains to be evaluated and must be considered an extremely long-term objective. Factors such as the very high illiteracy rate among women and men and many people's consequent ignorance regarding changes to laws and general policy

¹¹ NUEW, cited in Selassie 1992: p69.

direction must be considered. Thus a report for the European Union points out: “Contrary to most other governments in the region, Eritrea has not put into place a national machinery to implement the gender policies of the government”.¹²

Governmental Instruments and Documents

Chief among the policy statements and governmental documents are the **National Charter for Eritrea**, the **Macro-Policy Statement**, the report prepared by the **Ministry of Foreign Affairs** for the 4th UN Conference on Women and the **Constitution**, which has not yet been entirely ratified.

The National Charter for Eritrea

At the Third Congress (and the first since Liberation and Independence) of the EPLF, held at Nakfa in February 1994, a National Charter for Eritrea was adopted. In this document emphasis is laid on equity and equal rights for women: “A society that does not respect the rights and equality of women cannot be a truly liberated society. During the years of struggle, big changes occurred for Eritrean women... Our revolution would not have succeeded without... [their] participation. Even though the changes in the condition of Eritrean women so far constitute a giant step, they are not sufficient. Eritrean women have not yet freed themselves from patriarchal oppression”.¹³

The Charter sets out the commitment of the EPLF to full gender equality and genuine equal participation in all spheres of social and economic activity; there is clear continuity between definitions and goals promulgated and promoted during the struggle, and peacetime objectives. The Charter pays specific attention to the continued strength of patriarchal structures in all ethnic groups resident in Eritrea, and which define and circumscribe women. It is stressed that women are to be afforded equal rights in law and are to strive for equal participation at all levels of society and in all areas.

Specific Resolutions promulgated at the Congress include:

Resolution VIII: that land tenure is to be usufructory only; access to land is to be equal and regardless of gender, religion or ethnicity. The State is to be vested with sole ownership and supreme authority. It should be noted that this statement to an extent clarifies the prior EPLF agrarian land reform provisions; the Land Proclamation (58/94) broadly adheres to this Resolution.

Resolution XI: this focuses on enhancing the social position of women. Point 2 “Resolves to preserve, advance and expand the gains achieved in the revolution and to combat all attempts to reverse or undermine them”. Point 3 asserts that programmes will be drawn up and implemented which “[will] enable women to consolidate their political and social status, guarantee their economic freedom by enhancing their role in production, and broaden their access to education and training so that they may become self-sufficient and maximise their contribution”. Point 4 addresses the equal rights of women in the family and “Resolves to struggle to ascertain the right to women’s equality in the family as well as in the ownership [sic] of land and other property”.

¹² von Braunmühl 1996: p28.

¹³ EPLF 1994: p35.

The Macro-Policy Statement

The Macro-Policy Statement, made public in November 1994, gives space to the centrality of gender equality in the development of the country. Under the rubric Gender Issues, policies are set out which aim to ensure “[That] all efforts will continue to be undertaken to sensitise and enhance the awareness of the society... [regarding] the decisive role of women for the socio-economic, political and cultural transformation of the country. The equal rights of women will be upheld and all laws that subtract from this right will be changed. Participation of women in education and economic activities will be expanded”.¹⁴ Other policies mentioned are that ‘labour-saving technologies’ are to be introduced to alleviate women’s tasks within their reproductive roles (e.g. water and fuel wood collection; child care); mother and child health care services (unspecified) are to be improved and expanded.

The Ministry of Foreign Affairs: The Status of Women in Eritrea. The Eritrean National Report to the Fourth World Conference on Women, 1995 (MFA)

This document sets out both the advances already achieved in the field of gender equality and the present, often grave, problems and potential future difficulties facing its genuine attainment in Eritrea. The report is notable and unique for its frank approach to a wide range of issues and provides the single most detailed governmental consideration of women’s status in Eritrea; it will be referred to extensively below when discussing legal traditions and change.

The Foreword states “[A]s elsewhere in the world, much has yet to be done before we achieve absolute liberation of women and equality of gender, in spite of the achievements of the liberation struggle and the commitments of the government...women still carry an unacceptable burden of social and family responsibility and are still victimised by outmoded social values and relations”.¹⁵

It is acknowledged in the report that no national mechanism exists with the remit “to implement or put into practice the gender policies of the government...[T]he government...has been taking rigorous steps through the various relevant ministries and governmental institutions towards the improvement of the condition of women”.¹⁶ This situation remains the case today in early 2001. The report provides a summary of the measures undertaken in the first few years after liberation to raise awareness among women and men. It refers to concerted and co-ordinated efforts on the part of various ministries, the media and NUEW to “advocate the advancement of women in all fields. Representation within the government, information dissemination through the mass media, and activities through NUEW regularly address issues that concern not only women, but the Eritrean society as a whole... The social mobilisation that was carried out during the liberation struggle, and the present advocacy work...have provided a strong and fertile base for the socio-economic and political advancement of women”.¹⁷

Inter-sectoral collaboration between ministries is cited in the report as an absolutely key element in raising awareness, as are individual ministries’ initiatives, for instance the work undertaken by the Ministry of Education in various areas such as curriculum development and gender sensitisation of teachers. The Workshops on the Legal Rights

¹⁴ 1994: pp43-44.

¹⁵ MFA 1995: p3.

¹⁶ Ibid p16.

¹⁷ Ibid p23.

of Women, held in 1993-1994 in a number of towns throughout the country and attended by members of the legal profession and representatives from NUEW, are mentioned. It is interesting to note that certain Workshop recommendations go beyond those currently encoded in the Civil and Penal Codes. Thus it is recommended that “Prohibition of pre-marital virginity testing, circumcision [presumably both clitoridectomy and excision] and infibulation should be included in the civil code...Legal awareness programmes and legal aid clinics need to be set up in order to make the legal system more accessible to women”.¹⁸ In addition, reference is made to the continuing and extremely well entrenched authority of village-level and male-dominated assemblies in matters such as women’s legal rights, divorce and domestic violence. There seems to be an implicit suggestion that there is a very real need for considerable, specific action to be taken in addition to consciousness-raising and awareness campaigns.

The MFA report additionally describes the various articles, programmes and campaigns presented in the media, which have dealt with a number of issues. For instance, there was a joint radio broadcast by the Mufti (the most senior Islamic cleric in Eritrea) and the Patriarch of the Orthodox Church whose focus was an explanation that FGM is neither required by either religion nor necessary as an indication of female virtue. The Mufti at a UNICEF meeting reiterated this position, where he stressed that infibulation is harmful.¹⁹ Articles have been published in a number of newspapers and in various national languages, which stress the unacceptability of practices such as virginity testing and the health risks inherent in their continuation.

The Constitution

The importance of gender equality is referred to at various points in the document; thus Article 14 prohibits discrimination based on factors such as race, ethnic origin, colour, and gender. The same Article gives a clear mandate to the national assembly to legislate measures designed to eliminate such inequality. Other specific references include Article 7/2: “Any act that violates the human rights of women or limits or otherwise thwarts their role and participation is prohibited”. Articles 11 and 22 focus on the centrality of the family to Eritrean life: within that context women’s rights are to be assured and protected.

However, one report notes the following. “Whether the commitment to human and civil rights *and* to an enabling policy regarding women [as explicitly stated in the Constitutional Proposals for Public Debate, submitted in August 1995] should be further substantiated in the Constitution [by]... a specific chapter on women’s rights, is still under debate”.²⁰ The draft version does not contain such a chapter.

It is implicit in the draft Constitution that women have equal status with men in all areas and at all times. All opportunities that pertain to men are to have equal force for women; all citizens must recognise their duties and obligations to the country, the community and the family. It is in the sphere of the family and the nation that people’s individual duties are most clearly laid out.

Legal Instruments

¹⁸ Ibid p24.

¹⁹ UNICEF: Eastern & Southern Africa: Sub-Regional Consultation on the Elimination of FGM. Asmara: September 24, 1997.

²⁰ von Braunmuhl 1996: p38: emphasis in original.

Customary and Sharia Law

It is recognised that customary beliefs and practices will retain dominant force for the foreseeable future; this is unequivocally stated in the MFA document, which sets out the three types of legal systems which presently exist in Eritrea: “[C]ustomary laws practiced in the highlands [and it can be argued, elsewhere too – customary and Sharia laws often exist side by side], the ‘Sharia’ Law for Muslim communities and the Civil and Penal Codes of the State. Although the Civil and Penal Codes are the law of the land, customary and Sharia laws are prevalent in the majority of communities at the village level”.²¹ As already mentioned, the MFA report puts forward the view that it is up to the population itself to bring about change; the government’s role will be to provide information, not to enforce reform on the ground. This is consistent with the stance taken by the EPLF during the war.

The MFA document is scathing in its criticism of both customary and Sharia law with regard to legal equality, access and protection for women. Thus: “[T]he customary laws that are practiced in highland Eritrea and that directly affect women, such as engagement and marriage, divorce, child custody and support, rape, and property...are grossly prejudiced against women. Similarly, “Sharia” law on the whole is also grossly prejudicial against women...It is widely practised...and wherever it is applicable it is subject to varying cultural and traditional interpretations and practice. Although Sharia law, in principle, allows women to be educated, employed, as well as to participate in social and political life, [t]hey are...[in reality] often isolated in the confines of their homes, with their mobility severely restricted”.²²

Muslims are given the choice under the Civil Code of adhering to Sharia law. The MFA report states that new legal provisions with regard to the Family Law do not apply to Muslims, as Sharia law takes precedence. However, it is theoretically possible that Muslim women, married couples and families can choose to follow the Civil Code rather than adhere to Sharia law, however infrequent such decisions might be.

The Civil and Penal Codes and Government Initiatives and Proclamations

The current legal situation for Eritrea is that the government has decided to use the Ethiopian Civil and Penal Codes during the transitional period preceding the ratification of the Eritrean Constitution. Thus the Imperial Civil Code of Ethiopia, dating from 1960, was revised but to an extent continued to provide the legal framework. This situation continues to pertain in January 2001.

In 1991 the Provisional Government of Eritrea revised the Civil Code that had derived from Italian legal tradition and Ethiopian systems of both customary and statutory law. In the revised Civil Code each individual citizen shares equal rights without any discrimination based on ethnicity, religion or gender. The Penal Code was also revised to exclude all discriminatory clauses and to add protective measures for women. For example, the death penalty was commuted to life imprisonment for convicted women who may be pregnant or have children less than three years old.

Specific provisions that incorporate measures to eradicate gender inequality include the following:

²¹ 1995: p18.

²² Ibid: p18.

Marriage Law Reform: Eritrean Family Law

As has already been mentioned, the EPLF instituted significant reforms on this issue in 1977; these were ratified at its 1987 Congress. The Government of Eritrea has replaced previous Ethiopian marriage laws and its own proclamations with a new Family Law. This subsumes all EPLF initiatives. One major measure is the eradication of early marriage of girls (in some ethnic groups they can be betrothed at birth and married, often to significantly older men, at 10). The Civil Code states: "Women can enter into marriage freely, and are afforded equal rights... [to] men" (Article 48); "Marriage is based on the free consent of both partners, and needs no parental consent" (Article 46).

Such articles represent significant alteration to both Ethiopian law and customary law. For instance, the Ethiopian Code states in Book 2, Article 562 (Betrothal) that: "Representatives of the spouses'/betrotheds' families must be male". Customary law among most Eritrean ethnic groups in this respect is similarly one-sided: in many communities it is entirely the right and duty of the male members of the immediate family to choose a husband for a female. She will invariably have no say in the choice.

In order to safeguard girls against early marriage, the legal minimum age of marriage has been raised to 18 from 15 (although marriage at the younger age is still permissible under certain conditions). Husband and wife have the same rights within the family; dowry (among Christian groups) and bridewealth (among Muslim groups) have been prohibited; marriage by kidnapping (*Miziraf*) has been made illegal

There are a number of customary features held to be common in the Imperial Civil Code to most ethnic groups: for instance, women are expected to be virgins at marriage. Social control of sexuality is defined by female behaviour and proscriptions regarding female sexual activity; men are nowhere so controlled. A woman once married is considered to come under the control of her husband and his family; there are deep-rooted proscriptions against a wife seeking divorce, and in many situations this option is simply not open to a woman.

The new Family Law specifically addresses many of these issues. For instance, whereas Book 2, Chapter 5, Section 2, Article 635 of the Imperial Civil Code states that "(1) The husband is the head of the family. (2) Unless otherwise expressly provided by this Code the wife owes him obedience in all lawful things which he orders", the Eritrean Family Law notes that "Marriage is a partnership which gives the husband and wife equal rights as heads of their households" (Article 45).

Presumably this or another Article of the Eritrean law covers joint and common property within marriage, so as to counteract Article 656 (1) of the Ethiopian Code: "Common property other than earnings, salary and income of the wife, shall be administered by the husband".

However, while all the changes described above are praiseworthy, it must be stressed that the strength of tradition and perceived appropriate gender roles, which are anchored in generations of customary behaviour, are likely to render such reforms unacceptable and, therefore, untenable in many situations. One observer also notes. "Ignorance of the

law is one of the reasons for the continuing pressure to provide a dowry and [make] arrangements for early marriage, despite the laws which prohibit [these customs]”.²³

Abortion

This remains illegal and permitted only under very strict guidelines. The physical and/or the mental health of the mother have to be considered in extreme danger for a termination to be allowed. Abortion is also permitted when the pregnancy is a consequence of rape or incest. It has to be noted that it is unlikely that many such cases would be reported. It is not entirely apparent how many medical doctors must make the decision to permit a termination, and whether other medically trained personnel can give such permission. If one or more doctors must be involved, few women in the rural areas will have any possibility of taking such steps; indeed, the same condition applies in many places where nurses are concerned. There are very strong religious proscriptions in the Orthodox and Catholic churches against abortion, and such tenets undoubtedly carry much weight: there must be enormous pressure on unmarried pregnant women to find a husband.

Rape

This is a criminal offence, with a maximum prison term of 15 years; according to the MFA report its incidence is increasing in Eritrea, although no data are provided on this point. In this context it should be pointed out that as is common in many other countries, there is likely to be profound reluctance among affected families to make such an offence public. Shame and dishonour so often affect the victim and her family more than the offender: a raped woman is frequently unable to marry. Thus it is probable that far more rapes are committed than have ever been notified to the authorities. Traditionally rape was only considered serious if the victim was a virgin at the time of the offence. As the MFA report makes plain, the decision as to which action, if any, should be taken has traditionally been the responsibility of the male members of the family. The woman or girl has little or no opportunity to voice her wishes or gain access to any qualified outside help. “In cases where a young girl in the rural areas was raped, the offence is seen more as an offence against her family...[there are] customary law provisions which stipulate that the offender has to marry his victim and/or pay a fine to her family as compensation”.²⁴

The MFA report additionally states that rape was usually only reported in urban areas if pregnancy occurred – the woman’s family might then seek compensation through determination of paternity (it is not made clear how such decisions would be arrived at). Article 60 of the Family Law specifies “Paternity of children born out of wedlock is determined on the evidence and [the] sworn testimony (unretractable) of the mother”.²⁵ It appears the father may then be expected to give financial assistance to the mother and child if this is requested. Such provision stands in sharp contradistinction to the Civil Code of Ethiopia: where rape (judicially so declared) has resulted in a child, the rapist is under no legal obligation to provide maintenance to the child.

A report prepared for the Ministry of Health, the United Nations Fund for Population Activities and UNICEF highlights another potential problem area in dealing with cases of

²³ Tekle 1996: p13. This issue of people’s lack of knowledge of the changes promulgated or instituted by the government raises many questions as to the effective worth of such initiatives.

²⁴ 1995: p3.

²⁵ Ibid p19.

reported rape. "The police recorded a national total of 50, 70 and 105 rape cases during 1993, 1994 and 1995 respectively. However, the interviewed members of [the] public relations unit of the Police Department believed that only 5% of this [figure could be deemed] real rape cases...all the others are termed as cases of deception".²⁶ In other words, girls and women have been urged to give sexual favours in return for promises of marriage and/or material reward; these have subsequently been withdrawn. Araya notes that the police tend not to view sexual deception as a 'serious crime', however young or physically and/or psychologically immature the woman may be.

Marital rape is not presently being considered for inclusion as an offence in law.

Domestic Violence

While this is also now an offence, it is extremely probable that customary prescriptions still apply with great force. Physical chastisement of a wife is all too frequently seen as part of marriage and women are said to be accepting of this situation (although research could well be done on this particular topic). A Tigrinya proverb states "Beat a woman every day, a donkey every three days".

Such socialisation must result in marked under-reporting of this offence; it would be a brave woman who would go against pressure from her family and husband, perhaps especially in a patrilocal household. She would of course first have to decide that an offence had been committed and that customary strictures were inadequate. In addition a woman would have to be informed that legal structures exist to deal with domestic violence. "Violence against women in Eritrea is common across regions, classes, cultures and religions. Only after independence has it been acknowledged an abuse of human rights and a major factor in hindering women's full integration and equal participation in society... In most ethnic groups...commonly accepted beliefs and attitudes used to promote physical abuse of women, particularly of married women, who are seen as the 'property' of their husbands".²⁷

There appear to be no specific provisions at present with regard to **incest**, beyond the availability of abortion if pregnancy occurs.

Legal Counselling for Women

No specific, dedicated counselling opportunities for women exist or appear to be planned in the near future. "There are as yet no available public shelters, counselling services, or other social services that women can rely on even if they wanted to leave abusive relationships or receive support and legal counselling in the event of rape".²⁸ The rationale for this approach seems to be that at present it is far more realistic to focus on educating women about their statutory legal rights and duties, and about the changes made and envisaged in customary law and practice. Thus it is more appropriate to inform women as to their rights under the law than to provide counselling which it is considered they would be unlikely to seek, given the present low level of awareness of legal structures. Such information would naturally have to deal with a far broader spectrum of specific instances than those covered by physical violence: women (and of course men too) would need instruction in their general legal rights. The intention is that education on civic matters will be included in the school curriculum; in this way children

²⁶ Araya 1997: p72.

²⁷ MFA 1995: p36.

²⁸ Ibid p35.

will begin to have knowledge of the law and people's rights and responsibilities. It is at present unclear whether adult education on this subject is envisaged.

The report by Tekle, with its attention on the situation of women in Tigrinya society, amply demonstrates the gap that exists between proposed practice and daily reality: "women's general incapacity to exercise existing rights is noteworthy. As a first step, the law must provide the basis for rectifying the disadvantages women may suffer. In principle the law has - as seen in the...Constitution. However, in practice awareness and empowerment are imperative".²⁹ This is a subject that has many ramifications in respect to women's ability or otherwise to engage in activities brought about by government policies. As will be seen when perceptions of people in Hagas are discussed, the gap between women and men's knowledge of opportunities and options available to them and their beliefs concerning such matters is often wide and of significance.

It has been reported that the Ministry of Justice is to conduct training courses on gender awareness for court officials and other legal professionals. This is praiseworthy: however, many people living in rural areas, and indeed a large number of those living in towns, reportedly either still favour or have no option but to make use of, traditional customary courts and arbitration procedures (e.g. the *shumagele* among the Tigrinya). It is perhaps here that such training would be most effective.

The Eritrean Transitional Labour Law: 8/1991

This legal instrument is presently in draft form and has not been ratified; it is, therefore, not legally binding. The proposed new law will replace existing Ethiopian legislation. Consultations have been held with representatives from employers' organisations, trades unions, NUEW and government bodies. It will establish the principle of equal employment opportunities and equal pay for equal work for women and men. It will also address the protection of pregnant women from working night shifts, excessive overtime and in harmful conditions and provide for 60 days' paid maternity leave (it is not apparent who will pay for such leave – the government or the employer). All employees will be entitled to two weeks' annual holiday and sick leave (it is not clear whether the latter would ever be paid leave).

Other specific measures include the following: maximum working hours are not to exceed 48 hours a week and 8 hours a day and there is to be guaranteed pay for overtime; child labour is to be prohibited; free trades unions may be established. The situation with regard to protection of informal sector workers, among whom must be counted many women, is not entirely clear. However, consideration is apparently being given to providing a degree of specific protection and attention to work conditions for various groups of informal sector workers among which women form the majority, e.g. domestic servants and bar workers. There will also have to be clarification with regard to day labourers and seasonal agricultural workers, many of whom are also women.

The Proclamation of Land Tenure (58/1994): Agrarian Land Reform

In 1994 all land became the property of the state; each person over the age of 18 is to be given the right to a lifetime usufructory equal portion (if that person is under 40 years of age he/she must have completed military service). Precise details as to access and use are still under consideration.

²⁹ Tekle 1996: p15.

Customary tenurial systems, which almost without exception discriminate against women, are to be abolished. With the new land reform proclamation, the tradition of passing on land from generation to generation will eventually be abolished, and only women and men who are willing to directly use the land will have the right to use land. The only condition this law enforces is that, once obtained, the land must be used. The Proclamation allows a married couple to choose if they want land in his or her natal village. It has been noticed in other parts of sub-Saharan Africa that deep and reliable wells can actually determine people's residence after marriage, so it may well be the case that mobility is increased once people can choose their place of residence. What is more doubtful is whether women will gain greater self-determination.

Three points need to be considered in this context. Customary laws in many parts of Eritrea do not allow women to inherit land; in one Tigrinya village, Amhur, the whole community (i.e. including women) refused to accept the new land law.³⁰ It is unlikely in the extreme that such resistance will not be found elsewhere. In addition there continue to be many and varied proscriptions against women working the land (e.g. ploughing and sowing) in most of the ethnic groups. Thus even if women do gain genuine access to land, it may be culturally extremely difficult for them to work it themselves; this may introduce a number of imbalances.

When land reform was instituted in Tigray in northern Ethiopia it rapidly became apparent that women continue to suffer disadvantage, especially those in female-headed households. Men were able to gain *de facto* control over many women's land.³¹ The third factor is that many women, and indeed men, are likely to remain in ignorance of land reforms for the foreseeable future; even once these are made clear to them, the weight of cultural tradition in the rural areas may preclude genuine equality of access and opportunity.

Such confusion has definitely been the case for many people in Hagas, both among the returnees and the local residents. As a result, there is uncertainty and often fear that land will be alienated without reason or compensation given. Authorities in several places in Eritrea have demonstrated the same uncertainty as to the provisions of the Proclamation: personal communication has described local approaches based on specific circumstances; the view has been expressed that once the Proclamation is fully clarified, activities may be standardised. Until such time, immediate decisions may go against its supposed intent. This is an issue that exercises many people's minds and has led in Hagas and elsewhere to considerable discontent and apprehension over the future.

Women in the Legal Profession, in the Police Force and the Prison Service

The Minister of Justice is female; in 1995 16 of the 116 judges at district or provincial court level were women, as were 3 of the 16 judges sitting in the Supreme Court. At this date 6 prosecuting lawyers in the Attorney General's Office were women.

There appear to be no practising female lawyers in Asmara or elsewhere in the country: "Although there are a number of women graduating from the Law School at... Asmara

³⁰ Tekle 1996: 21.

³¹ Hendrie 1996: personal communication.

University, there are no practising women lawyers to date".³² Thus at present all women active in the legal profession are seemingly employed in one or other capacity by the government. This is an important issue, given the wide-ranging, and often contentious, legal instruments and policies that will one day be effected. Indeed, some are already being implemented, albeit in a somewhat piecemeal fashion due to the exigencies of the recent conflict with Ethiopia, the drought in many parts of the country, and other factors. Many such instruments will clearly have far-reaching and specific implications for gender relations: the role of women legal professionals may well be something to consider.

The MFA further notes that the number of women in the police force and prison system has been increasing in the years since independence (1991). In 1995 women comprised 16% of the police force and 19% in the prison system.

Governmental Decrees: women in the political arena

Italian colonial writers such as Pollera state that traditionally it has been only Kunama women who have had a modicum of possibility to participate in village assemblies and the opportunity to make their views felt; even in this matrilineal society it is unlikely that women ever had genuinely equal access. Women in all other ethnic groups in Eritrea simply did/do not have that option – traditionally male relatives choose whether a woman's proposal or protest should be presented, and they speak on her behalf.³³

Therefore, the very concept of 'women's rights', as presented at the First Congress of the EPLF in 1977, must have seemed alien indeed to many of the delegates. It has also to be considered that women have responsibility for most of the daily chores of the household, while men are not so bound by routine. As a result, men are not only customarily expected to take a leading role in community management; they have more actual spare time in which to do so.

In order to counteract such entrenched ideas, the Eritrean government has instituted various measures. It has reserved 30% of positions in the national and regional assemblies for women. Whereas before there was a quota system in operation in the provincial, district and village assemblies, with 10% of seats at all these levels reserved for women, the administrative structure has recently been simplified.

Village administrative structures, *kebab*, and village assemblies, *megab'aya*, represent part of the process of decentralisation of local government administration. The situation at present is that most, if not all, *kebab* and *megab'aya* use traditional communal structures of election and assembly. It is inevitable that these will be male-dominated for quite some considerable time to come, given the strength of traditional structures and people's perceptions, which lead many women themselves to question any change in their traditional roles and duties.

In order to counteract such influences, the Ministry of Local Government has instituted a system whereby the village administrator will chair meetings and everyone over the age of 18 will have a voice. Thus people are no longer elected to form a village council. While this new system is laudable, the question still remains as to whether women in

³² MFA 1995: 6.

³³ See e.g. EPLF 1994; Kane 1995; MFA 1995; NDP 1987; Pateman 1990; Silkin 1983 & 1989; Tekle 1996; Tronvoll 1998; von Braunmühl 1996; Wilson 1991.

certain communities, e.g. among the Tigre, Rashaida and Afar, will actually be allowed to attend such meetings, let alone speak out.

In addition, as the MFA report describes, many women are dissuaded from seeking a more active role for a number of inter-linked reasons. "Family and social pressures are some of the major constraints which women have to overcome in order to take part in elections. Many women, even those who during the liberation struggle had [proved]...to be strong, capable and experienced, have shown reluctance to stand for office. Obviously, more civic education is necessary to identify and encourage women to stand for elections".³⁴ This document makes one further very important point: that until services (e.g. those described in the Macro-Policy document as integral to women's advancement) are in place which liberate women from their all too onerous daily tasks, few will even have the leisure to contemplate such action.

In 1992 the then Transitional Government ordered the Ministry of Local Government to present a proposal for women's representation. Campaigns were introduced which promoted women's equal rights and the ideal of equal access to decision-making positions; it was at this time that the quota system was put into effect. In 1995 women's participation in provincial, district, town and village councils was as follows:

Table 2: Women's Participation in Local Government

Council	Women	Men	% Women
Provincial	112	534	17.3
District	423	2,390	15.0
Town	21	61	25.6 *
Village	841	7,283	10.3

* Data are available for only 4 of the old 10 provinces³⁵

In 1998 there were three female town administrators: in Hagas, Adi Qayeh, and Afabet, all sizeable places with large populations; the sub-region of Mendefera has a female Deputy Governor. By 2000 a man had become administrator in Hagas. In the election held in December 1996 for appointment to Provincial Councils nationally, 9 women were initially elected overall. There are a total of 369 seats on the Councils; application of the quota system raised the figure for female participation to 123.

It is relevant to bear in mind that most people's lives will be most closely and continuously affected by events at village level; the statistics shown above must be illustrative of how few women have any position of genuine influence in assemblies which most directly bear on everyday life. It would be illuminating to have more information regarding the village-level scope of the various campaigns, and their geographical spread. The intention of the MLG is that female members of the Provincial Councils should act in a pro-active fashion, encouraging women to participate at all levels of local government.

³⁴ 1995: pp7-8.

³⁵ Source: the Ministry of Local Government 1997.

3. Concluding comments

The Eritrean policy framework with regard to the promotion and achievement of gender equity and equality is impressive, as is the government-level commitment to the incorporation of such ends into all areas of national life. The foundations have been laid; the next stage is to ensure the genuine and sustainable implementation of these goals. Clear and unassailable links between policy and practice should be instituted, as should mechanisms to ensure that all members of the Eritrean community are aware that gender equity and equality are intrinsic to the development of the nation. All sectors of the population must be made aware that this is a long-term project whose stages will build on each other, and that there can be neither retention of unequal practices nor a return to the old ways where these demonstrate inequality based on gender.

Policy documents and legal measures, if fully implemented and subsequently, and crucially, accepted and observed by the general population, would usher in enormous and far-reaching changes in attitude and behaviour. The situation is very much at present that customary practice militates to a very great extent against equal and fair participation of girls and women in any arena. By far the most important perceived role of a woman is to be first a daughter and then a wife and mother.

It is apparent that at present there is need for a bridge between policy directions and implementation: the implementing mechanism to institute and then to consolidate such changes is not yet in place. As has been noted by a number of commentators, there is considerable reliance in the EPLF, the Transitional Government of Eritrea (effective between 1991-1993) and Government of Eritrea proclamations and measures on the generation of sustainable change from within the community. In other words, the consistent view is that people must themselves wish for, and subsequently implement and sustain, changes in attitude and behaviour with regard to gender roles. Any more pro-active stance on the level of actual firm guidance on the part of national and regional government, ministries and indigenous NGOs appears to be deemed inappropriate, as such directives or guidance might very well be resented and/or rapidly disregarded.

This is a multi-faceted and extremely complex issue. It is all too well-known from experience of development projects and programmes elsewhere in sub-Saharan Africa that top-down measures and laws have frequently been resisted with great tenacity; such initiatives have also seldom taken people's own customs, attitudes, behaviour and needs into sufficient account. It is neither surprising nor anything but positive that the Eritrean government prefers not to follow a well-trodden path of development, which may fail properly to incorporate people's own views and knowledge. It is nowadays accepted that draconian measures instituted and implemented by administrative fiat and without due debate and explanation stand little chance of sustainable acceptance; the failure rate of such projects is high. It is also the case that the government wishes very much to focus on indigenous routes to development, bearing in mind the unique recent history of the country and the progress already achieved in the few years since liberation.

However, existing evidence indicates that an approach depending primarily on community-generated sustainable change may result only in minimal and marginal alteration in extraordinarily entrenched perceptions. There is a danger also that only extremely slow acceptance and implementation of change will occur, unless there is a high degree of clear direction from governmental, ministerial and indigenous NGOs at all levels, but most crucially within the community. This must be especially true in the

Eritrean situation where the great majority of the population is illiterate and additionally predominantly deeply attached to customary laws and perceptions of appropriate gender roles and behaviour. There is definite resistance to the implementation of change, e.g. in land tenure. Furthermore, most people, but especially rural women, remain unaware of any developments in the sphere of gender equality. For instance, the decision by the government not to provide dedicated legal counselling for women, but rather to inform them of their statutory rights and changes made to customary and religious laws through as yet unspecified channels, could result in many illiterate women simply not having access to such information. Thus the intentions of any number of entirely gender-sensitive and progressive measures may be nullified by ignorance.

'Active encouragement' perhaps best sums up the certain alteration of emphasis that can be discerned between wartime EPLF and peacetime government objectives. It was very much the case that such an ethos dominated activities in the liberated areas. Of course it has to be recognised that wartime activities cannot and should not be exactly replicated in the context of an independent nation rebuilding itself after so many years of struggle. Nonetheless, certain approaches can be transferred.

If people are to be so-called 'change agents', i.e. primarily to generate developments with regard to greater gender equality themselves, it has to be recognised that this approach presupposes an enormous degree of will, clarity of direction and sustained activity on the part of individuals and communities. It also requires consensus. The great majority of Eritrean women are not only currently circumscribed in terms of genuine freedom of decision and action; they will often themselves be most resistant to change due to an entirely understandable reluctance to replace the familiar with an uncertain future.

A further entirely practical consideration, which will undoubtedly hinder women from seeking and sustaining a more active role in community affairs and development activity, is the female workload. So many girls and women have no time to participate in anything other than the incessant daily round of household tasks. To suggest in this context that significant numbers of women will be able to widen their scope of activities does rather bring to mind the now discredited development perception of women as 'under-used assets'. This approach expected women to put their supposed free time to good use in terms of community development and greater personal economic independence. It is at the level of the community that attention should be focused and steps taken to ensure that women are not only allowed to participate more in decision-making but that they have time to maintain such involvement. Women and girls should have an equal say in deciding on access to education and health care; at present this is seldom the case, with the frequent result that girls and women are denied equal rights.

Another crucial part of the equation is the attitudes, behaviour and future role of men. Many will be not only resistant but also actively hostile to change; others may well in fact be quite positive about the possibility of greater equality as expressed in gender roles. Eritrea is no more a homogenous nation than any other; there are many interest groups and communities whose experiences, objectives and needs will differ significantly. To view the population as on a single track with regard to gender roles and development would be invidious.

For example, ex-fighter women have been mentioned several times in the post-war literature as 'a natural community' whose members will share a common history,

purpose and outlook and who are likely to be especially dedicated to the pursuit and maintenance of gender equality. It has been suggested that they should be especially encouraged to act as change agents. Brief reflection indicates the difficulty of such focus: ex-fighter women are to be found in all sectors of the community. Some will undoubtedly have both the will and the opportunity to pursue such goals; others will be overwhelmed by the struggles of daily life. No research has been published on the subject of the post-war marital, work and societal experiences of ex-fighters (female and male). However, it is possible that the difference between wartime behaviour and expectations and peacetime pressures to re-assert traditional practices and perceptions is a major reason for the often-reported but as yet unverified very high divorce rate among this group.

Thus the situation at present is that the constitutional and legal framework exists with regard to gender equality; as yet the implementing mechanism by which policy can be introduced, put into practice and ultimately sustained is not entirely in place. This gap is recognised in the MFA report to the Beijing conference; the way forward is seen in that document as co-operation both within and between ministries and other bodies. It is further acknowledged that inspiration can be taken from the successful social mobilisation programmes carried out by the EPLF. It can, however, be argued that in addition to these essential steps there is a need for a dedicated national mechanism of implementation with regard to measures promoting gender equality. The absence of initiatives such as a chapter in the Constitution on women's rights or gender-specific activities, the provision of legal counselling for women, or an organisation specifically given the remit to advocate and monitor progress towards gender equality, might have unfortunate consequences in the general population. Such consequences might run entirely counter to the government's intentions on the question of gender equality.

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