



CUSTOM AND WOMEN'S RIGHTS IN TIGRIGNA SOCIETY

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ABSTRACT

Both women and men play important roles in the production of goods and services for a nation's economy. Most women have the extra burden of caring for children, the sick and the elderly, as well as management of the household. Yet women are deprived of equal access to resources, participation in decision-making, and even the right to make their own decisions. Even though the legal status of women has changed substantially since Eritrean independence, their social status remains relatively unchanged in many parts of the population. The paper tries to explore the discrimination of women in Tigrinya society based on customary practices in newly independent country Eritrea.

Keywords: Gender Based Violation, Eritrean People Liberation Front, National Union of Eritrean Women, International Covenant on Civil and Political Rights.

INTRODUCTION

Eritrea is a country in the Horn of Africa with a population of four million. About 75- 80 percent of the population are peasants and nomads. Thus all the cultural and customary practices have emanated from both these groups. One of the nine ethnic groups in Eritrea is Tigrigna ethnic group. The Tigrinya society reside in the central and southern highland regions of Eritrea, an area that includes Asmara, the capital city of Eritrea, and other major Eritrean towns such as Dekemahere, AdiKeyh, Mendefera, Adi Quala, and Senafe. The Tigrinya society tend to live in relatively densely populated and closely built villages; they are mostly mixed farmers, sedentary agriculturists who use oxen-drawn ploughs during the rainy season. They move with their animals to pastures in areas inhabited by Tigre-speakers during the dry season. The Tigrinya-speakers are mostly Orthodox Christians, although there is a large minority known as Jiberti who are Muslims. ¹Tigrinya Jibertis, also known as Djibertis, are described as Muslims "scattered throughout the Christian Highlands who practice Islam but also observe some customs of the Christians among whom they live". ² Most Tigrigna society believes that such a gender hierarchy is normal and that boys and girls should be raised differently because of their essential differences. Inequality begins at birth. For example, most groups regard a daughter's birth as a less significant and less happy even than that of a son. Whereas it was considered that a boy would contribute economically to the family and carry on the family name, girls would marry out; this not only meant the loss of the family name but also required dowry expenditures in

¹Woldemikael, M. Tekle. (2003), *Language, Education, and Public Policy in Eritrea*. African Studies Review, Vol. 46, No.1, pp. 117-136

²United Nations (UN). January 2005. *Eritrea Risk Groups and Protection-Related*. United Nations High Commission for Refugees (UNHCR).

marriage. Therefore, female children were seen as a liability and a drain on family resources rather than as valued individuals.

Women's Rights

The term women's rights refer to the putative freedoms and entitlements of women and girls of all ages. These rights may or may not be institutionalized, ignored or suppressed by law, local custom, and behavior in a particular society. These liberties are grouped together and differentiated from broader notions of human rights because they often differ from the freedoms inherently possessed by or recognized for men and boys and because activists for this issue claim an inherent historical and traditional bias against the exercise of rights by women and girls.³ So women's right is part of human rights which are applicable to all and are up on fundamental principles of respect for human dignity, equality and non- discrimination. Based on this Eritrea accepted the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW Convention) in 1995 and the constitution gave guarantee for equal right of men and women, but customary practices in many societies, specifically third world countries, is without question acts as one of the most serious human rights violator. Certain practices within every custom violate the rights of many sections of the population for example "[Gender-based violence] GBV takes many forms including FGM; domestic violence, enforced child bearing and early child marriages to older men. A number of research reports acknowledge that all forms of violence against women are underreported in Eritrea as most victims are prevented by custom and fear from reporting the assaults against them."⁴

Custom

Despite women's right is important concept yet custom became the most obstacles to achieve women's right because societies are more aware of customary practices rather than rights. Customs are more than aggregates of individual habits. They are regular, patterned, learned, and traditional ways of appearing or behaving in response to a given situation or occasion. Customs may be reflected in language, greetings, communications, religion...etc. The complexity of the study of customs was emphasized by the anthropologist Ruth Benedict, who noted in the 1930s that traditional customs the world over consist of a mass of detailed behaviors more varied than that which any one person could ever evolve individually.⁵

Customs are derived from social norms, which are those rules or standards that guide, control, or regulate proper and acceptable behavior of a group. These norms define the shared expectations of a group and enable people to anticipate how others will interpret and respond to their words and actions if there is deviation from a custom. From the moment of birth, the customs into which the people are born shape their experiences and behavior. Most of the time custom established and influenced by the existed socio-economic situation in which every society live. For example agricultural and industrial societies have different way of life as well as different customary practices; this is because their modes of production shape the custom they have. In Tigrigna society most of the people live through agriculture but the problem is women's are considered as physically weak they so don't play vital role in agricultural production. This exterminates their contribution and make them dependent. Moreover religious and ethnic factors affect

³Hosken, E. Holt, Rinehart and Winston, Friedl, Fran P. (1975). *Women and Men, an Anthropologist's View*. (1981). *Towards a Definition of Women's Rights' in Human Rights Quarterly*, Vol. 3, No. 2, pp. 1-10.

⁴COI Service.(2013) *Eritrea Country of origin information report*.

⁵Shaw.N. Mal, 2008, *International Law* 6th Edition. Cambridge University Press, P, 22-25

custom for example in Tigrigna society women cannot be a priest and because they considered as weak if there shortage of rainfall women's and children have to pray for God on behave of the community due to the believe that God heard for the weak. Therefore religion and socio-economic factors plays determinant role in shaping the custom in Tigrigna society.

Customary Law

Customary law is part of custom which emanates from general values, norm, usage of the community and becomes the law which administer its affairs such as family issue, land issue, property rights and the law of dispute resolution mechanism. There is no generally accepted definition of what constitutes customary law. In general, customary systems of justice refer to the types of justice systems that exist at the local or community level, that have not been set up by the state, and that derive their legitimacy from the mores, values and traditions of the indigenous ethnic group. Although they are often indicated by the term 'informal' or 'non-state', they do not exist unrelated to, and function independently from, state legal systems. On the contrary, customary and state legal systems define each other in their many interactions. "Customary law is the law according to which most of the Eritrean population regulates marriage, divorce, inheritance and land tenure, amongst other things. Thus, customary law is a body of norms, customs and beliefs relevant for most Eritreans. However, despite this relevance for the majority of the population, customary law marginalized for large part of community such as women's by denied their land right and participation in different sectors. Customary law is a complex, dynamic system which has constantly evolved in response to a wide variety of internal needs and external influence."⁶ Most of the customary laws are formulated in the way that guarantee patriarchal domination by giving men superior role.

Patriarchy

Most of the time customary laws reflect the patriarchal values which subordinate women's. "Patriarchy in its wider definition means the manifestation and institutionalization of male dominance over women and children in the family and the extension of male dominance over women in society in general. It implies that men hold power in all the important institutions of society and that women are deprived of access to such power. It does *not* imply that women are either totally deprived of rights, influence, and resources."⁷ The social attributes and opportunities associated with being female and male and the relationships between women and men, and girls and boys, as well as between women and between men. These attributes, opportunities and relationships are socially constructed and are learned through socialization processes. They are context and time specific, but changeable, since gender determines what is expected, allowed and valued in a woman or a man in a given situation. In most societies, there are differences and inequalities between men and women in the assignment of responsibilities, undertaking of activities, access to and control over resources, and decision-making opportunities with gender as part of the broader socio-cultural context. Along with gender, there are other important criteria for analysis, including race, class, age and disability, and hence all these can, alone or combined, amount to a type of discrimination.

Origin of Inequality

⁶Lerner, G. (1986). *The creation of patriarchy*. (Volume One). Oxford University Press, p.239

⁷Ambunda, L. and de Klerk, S. (2011). *Women and custom in Namibia: A research overview*, p.43-44

The patriarchal perception make women as being inferior to men is also reflected in the fact that women are disproportionately affected by violence. Historically violence against women is the result of unequal power relationships, but also a means to maintain this inequality *"The theories of gender inequalities see inequality as the result of the organization of society, not from any significant biological or personal differences between men and women"*⁸. *"Marx and Engels like the liberal feminist argue, the relational basis for women subordination lies in the families because the family as it exists in complex society is overwhelmingly a system of do mint and subordinate roles"*⁹. It is patrilineal, in which the name of the families and property passing through the male line, the power vested in the male and monogamous marriage the wife has sexual relation only with her husband. The double standard allows men to have for greater sexual freedom. So such kind of practices excluded women from community who entry and make them less competitive than they should be under the economic structure of the society.

Gender Difference

"Biological explanation of gender differences by Alice Rossi (1977; 1983) is given serious attention to the biological foundation of gender"¹⁰. But the paper revealed that women's inequality has social bases rather than biological. Based on NUEW during thirty years war with Ethiopia 40% of the armed fighters were women and one of the major themes in this social revolution was the emancipation of women. So many of the women were doing well and even better than men and also sustained higher level of casualties than men and were in many received greater reward. Unlike the traditional believe there was greater sense of mutual respect and equality among the fighters. Therefore we cannot take biological factor as a pretext for the base of inequality.

Social Situation

"Liberalist feminism characterizes the theory of gender inequality in which; men and women are not only differently situated in society but also unequally situated specifically, women get less of material resources, social status, and lower opportunities for self-actualization than men".¹¹ Despite both male and female have an important role in the production making for family yet women's in Tigrigna society deprived of equal access to resource in which women do not have any power to control household resources. These study revealed that women lose control over their possessions to their husbands up on marriage. It was founded that some women go their husband's home with their livestock as their dowry but the wife's cattle may still be taken as belonging to her so the same principle is happening when a women engaged in formal (official) or informal income generating activities; the income is automatically transferred to the husband. This is a kind of women oppression at cultural (custom) level because power of the household vest's on the hands of men. Also traditionally women considered as less intelligent than men in whom the universal justification for treating women as inferior is that they are taken as immature and therefore, cannot form (made) proper decision. As a result women are demoted to status of children and, like children they are subordinated to control of a senior male guardian.

The Continuation of Inequality

⁸Ritzer, G. (1992).*Contemporary Sociological Theory*.(Third Edition).McGraw-Hill, Inc.USA

,p.326

⁹Ibid,p.328

¹⁰Ibid,p.321

¹¹Ibid, p.323

*"Psychoanalytical feminist operate with a particular model of patriarchy. Like all oppression theorists, they are particularly as a system in which men subjugate women, a universal system, pervasive in its social organization, durable over time and space, and triumphantly maintained in the face of occasional change. However, is the view that the system continuously and energetically to create and sustain while women resist occasionally and work for their own subordination".*¹² Our research also proved the domination of men over women. In most of Tigrigna custom and customary laws, in which male learned to institute dominance and hierarchy over other people by their earlier practices of dominance over the women.

Marriage

*"According to Jessie Bernard's 'the future of marriage' (1982), marriage is at one and the same time a cultural system of beliefs, ideas, an institutional arrangement of roles and norms and a complex of interaction experiences for individual women and men".*¹³ In Eritrean society generally marriage is conducted by third party and it is creating communal relation between the two families rather than the two individuals. On the other way women do not have opportunity to choose their husband and women are also expected to be virgin. Fidelity is expected from women who should be submissive and silent in public toward her husband despite he has full freedom to speak and watch his wife. More over domestic violence like wife beating is still understood as important for good and disciplined marriage and considered as normal because traditionally the society believes divorce is disadvantageous for women. So the wife should tolerate whatever the husband does to violate her rights. So marriage empowers the role of husband with authority and freedom and also it mandates that wives to be compliant, dependent, which essentially restrained in domestic work.

Power relation between Men and Women

"For radical feminist see women's situation as consequence of a direct power relationship between men and women in which men ,who have fundamental and concrete interest in controlling ,using, subjugating and oppressing women effectively implement those interests. So they mean that all forms suppression and discrimination of women are due to the basic structure of domination most commonly called patriarchy".¹⁴ "Bennett is of the opinion that the status of African women is dictated by a deeply entrenched tradition of patriarchy. Patriarchy can be defined as "a form of social organization in which the father or eldest male is the head of the family and descent is reckoned through the male line", and is generally understood as the control exercised by senior men over the property and lives of women and young men".¹⁵ The empowerment of men indicates for the disempowerment of women, who are deprived of their rights and the capacities necessary to deal with the world at large. Men in the Tigrigna culture are referred to as father and head of the family. In these roles, the man particularly in rural areas provides for all the physical needs of the family. A woman is culturally defined among the Tigrigna society as mother which is take care of children, creator duo to its reproductive role and sister. So duo to the above explained stereotype a man is regarded as the head of the household and backbone of the family while a women taken as the need support for her husband in every sector such as agriculture starting from plough to harvesting. He is also responsible for providing basic needs of the family such as food, clothes and security to control

¹²Ritzer, 1992, p.325

¹³ Ibid, p.326

¹⁴ Ibid, p.331

¹⁵ Bennet, 1996a

each and every movement of women. As a result the disempowerment of women became a ground for disadvantage of women in decision making, resource control and participation in traditional dispute resolution

Area's of Discrimination, Traditional Practices and Violence against Women

Education

One of the fundamental rights is getting education. In their perception the earlier times in traditional societies the basic aim of education is limited to how to read and write and knowing the four functions of mathematics; addition, subtraction, multiplication and division. However with the expansion of education new schools that opened in rural areas families started to send their children to primary, middle and secondary schools. Although, many countries have made a lot of effort to improve girls 'participation in secondary school one of them is Eritrea , but still have not ensured this objective because of female dropouts. So they lost the opportunity to education and vocational training that would help them to become self-reliant and productive members of society and women to be given access to education, helps to gain knowledge and rationality and to enter public life. The literacy rate in 2006 of the total population age 15 and over was 61.4%; males 72.3% and females 50.7 %¹⁶. One of the grounds which gave women a lower status in society against their male counterparts could be the issue that most women and girls were not allowed to either enroll for or finish at least secondary school. Thus, their enrolment was relatively low. Some of the reasons for withdrawal from primary education may be the need to work at an early age or to care for younger siblings.

Customary Marriages

"The EPLF called for marriage to be monogamous, discouraged the payment of dowry, and instituted equal rights for women to divorce and inherit property. In 1978 the EPLF passed its new laws concerning marriage, banning child marriage and marriages that were not based on the free choice and full consent of both the marrying partners¹⁷ but according our research most women particularly above the age of 35 marriage was not based on free consent of the party so 25 from 30 women in rural area and 10 from 20 women in urban areas married by pressure of their family which indicated that marriage was not according their consent of the individuals. There is clear difference between urban and rural due to different factors which change the understanding of the people such as impact of globalization which is related to impact of media announcement through different programs like witnessing a film but in rural area because there is no supply of electricity it is better to say they are marginalized from such influence.

Traditional marriages have been identified as one of the grounds for disadvantage when it comes to attaining or determining gender equality. It is mediated by third party mediator traditionally; marriage is regarded as an arrangement between the kinship groups of the man and the woman.¹⁸ Most traditional communities undertake to pay a dowry to the men's parent. This payment establishes a social relationship between the groups and, in the process, it gives the man and his kinship groups certain rights of control over the woman. The research also revealed most of the women's are subject to series control of her husband only after the marriage conducted. Therefore marriage is not conducive for women because their life is full of control and no permission to give any response for her husband even though she faced any

¹⁶ ENCYCLOPÆDIA Britannica, 2006, p. 254

¹⁷ Matsuoaka, A. and Sorenson, J. (1999). *After Independence: Prospects for Women in Eritrea.*, p. 7

¹⁸ NUEW, (1994). Unpublished paper compiled by Research and Documentation Center.

violence such as wife battering.

In many customary law systems, the payment of a marriage which is dowry is the principal criterion for a valid customary marriage. Thus, the dowry is used to distinguish a valid marriage from a non-formalized union. Dowry, as the criterion for a valid customary marriage, is tendered by the bride parents to the groom's parents. This is usually paid in full and can be in the form of cattle or money.¹⁹ So dowry is one of the pretexts or divorce because most of the people have certain expectation when they married women and any failure to this expectation became cause for divorce but unlike Tigrigna society in other country like Namibia, "the payment of lobola is not exercised by all traditional communities. Therefore, lobola is not a major criterion for the validity of a customary marriage in terms of all customary systems, because it varies in form, function and value from community to community."²⁰

Under Age Marriage

Under age marriage is when a girl married before she reaches the age of 18 and before she became physically and psychologically mature for marriage.²¹ In worldwide about fifty one million girls are married between the ages of 15-19 which leads to poverty and family irregular interaction.²² According Eritrean proclamation there are several factors which pushes for underage marriage.

The first factor is economic hardship: in the areas of family face economic problem suffering take as an option to married their daughter at the early age. In fact this is not the best choice because this lead to further problem comparing the cost for marriage is expensive in Eritrea.

Secondly, Cultural and religious reasons: by culture female consider as a liable and a need for a female purity such as question of virginity. Moreover religions support the patriarchal system which gives more consideration to male.

Thirdly, Gender biasness: in many areas there is biasness towards males therefore little investment done in females' health, education and etc. this hinders the girls from being enlighten having courses regard their rights.

Finally, Weak enforcement of laws: many countries even though they have laws that supported gender equality, in reality the implementation of laws are very weak, like all other parts of the world in Eritrea law are designed theoretically but not successful in determining these bad tradition. Women are married before 18 years while men much more elder than women so most of men coupled when they became psychological and physically mature for marriage. All of this discriminatory practice has an adverse effect on health of women. "Child marriage can have profound psychological health consequences for girls, particularly younger girls, and these consequences may impact women throughout their lives. They may have few options to socialize and participate in public life and experience feelings of worthlessness, regret, and depression."²³

Customary Laws

Worldwide, both women and men play important roles in the production of goods and services for a

¹⁹Interview with Mrs. Abrehet Yemane. (April 25, 2013). NUEW. Legal Advisor of NUEW. Asmara. Eritrea

²⁰Ambunda and de Clerk, 2011, p. 54

²¹United Nations (UN). January 2005. *Eritrea Risk Groups and Protection-Related*. United Nations High Commission for Refugees (UNHCR). p. 4

²²International Center for Research on Women (ICRW), (2003). *"Too young to wed: The Lives, Health, and Rights of Young Married Girls"*. p. 1

²³Population Council. (2007). *Understanding sex without consent among young people: A Neglected Priority*. Brief, No. 7, p. 3.

nation's economy. Most women have the extra burden of caring for children, the sick and the elderly, as well as management of the household. Yet women are deprived of equal access to resources, participation in decision-making, and even the right to make their own decisions. For example customary law of LeggoChiwa and AdkemeMelgae mandates women to ask her husband if she want to divorce to call her parents and never go without the permission of her husband.²⁴ Even though the legal status of women has changed substantially since Eritrean independence, their social status remains relatively unchanged in many parts of the population.²⁵ This divergence between women's legal status and their social status is, as will be shown in the following chapter, a contributing factor to the violence being perpetrated against women.

Land Rights and Property

Generally both mothers and fathers legally are recognized as heads of the family. Traditionally men as the head of the family make the final decision with regard to household property, decisions about livestock, and property disposal and acquisition. In many traditional societies, there is rarely a time in a woman's life when she is not under the direct control of a man. Even though women can head households, in marriage the man is still regarded as head of the household.

Under most customary systems, women – at least traditionally – do not own or inherit land. This is partly because women are perceived to be part of the wealth of the community, and therefore cannot be the locus of land right grants. For most women, access to land is indirectly a system of representative ownership through men such as husbands, fathers, brothers and sons. Customary rules, therefore, have the effect of excluding females from the clan or community entity. Married women traditionally do not inherit land, but are allowed to inherit property.²⁶ However the research ensured in some case women does not inherit property if they don't help material needs in *teskar* which is a religious and social ceremony for dead person.

Widowed women traditionally do not inherit land, but are allowed to remain on the matrimonial land and home until their death or remarriage.²⁷ Over the past decade, however, even this social safety net has eroded, with male heirs tending to sell off their rights to the land, leaving widows landless and homeless. In most ethnic groups, a married woman does not own property during marriage. All her property even that acquired before her marriage is under the sole control of her husband. Based on Bennett's opinion the control exercised by women over land is over use rather than control or ownership of the rights to it. This subordination of women socially and economically renders them less competitive than they should be under the current economic structuring of society.²⁸

Women in the communal areas of Tigrigna, especially those that are married, are in a difficult position because, customarily, women in many Tigrigna cultures are not allowed to own property and do not have control over family finances. Based on this research thus, most rural women depend on their husbands to give them money or to send money to them from the urban areas. In effect, therefore, women face continued dependence on men for money which contributes to maintaining their lower social status comparing with men, and places them at risk of poverty, exploitation, and gender-based violence.

Customary Dispute Settlement

²⁴ Customary Laws of LoggoChiwa and AdkemeMelgae, Code (1944) ,p 32

²⁵ Unpublished Document of NUEW,1994, p 47

²⁶ Customary law of LoggoChiwa, Code (1944),p 52

²⁷ Ibid, p 55-56

²⁸ Ambunda and de Klerk. 2011.p.43

The importance of customary dispute settlement for the majority of the poor, the prominence of customary justice systems in first instance lies more in the regulation of important aspects of daily life, such as access to land and natural resource management, and family issues such as inheritance and marriage, than in the settlement of occasional disputes. In fact, the administrative and dispute settlement powers of traditional leaders are intrinsically connected.

The issue is that customary law and customary dispute settlement and administration may violate human rights standards and constitutional provisions. This is partly caused by the fact that judges and community members are often not aware of human rights standards such as the right to equality and non-discrimination. Another problem is that customary criminal procedures do not necessarily provide victims and suspects with minimum fair trial and redress standards.²⁹ Further, some local norms and practices, such as public humiliation and physical violence, or institutionalized discrimination of certain groups derived from traditional values and hierarchal notions may directly contradict human rights standards. A typical example is where customary justice systems lack gender equality and violate rights of non-discrimination. Customary systems are widely regarded as patriarchal and therefore systematically deny women's rights to assets or opportunities. Gender perspectives may even be so deeply inculcated that they leave many women ... resigned to being treated as inferior as a matter of fate, with no alternative but to accept their situation.³⁰

Dispute settlement issues include the fact that courts lack women judges, women face cultural impediments to participate in court debates, and in some cases are even required to have their interests represented by their husbands or male relatives. Customary administration issues include that most leadership positions are held by men and that land ownership is often vested in men, while women exercise only derived rights. Such norms and practices operate to create a gender bias, for instance in cases of inheritance and divorce. Some studies see the gender bias of customary justice systems as an incorrigible trait, and advocate for a complete disengagement with customary justice.

Female Genital Mutilation

The definition used by the World Health Organization FGM/C, Female genital mutilation, also known as female genital cutting' or 'female circumcision', refers to all procedures involving partial or total removal of the female external genitalia or other injury to the female genital organs for non-medical reasons. Most types of FGM/C involve the cutting and removal of portions of the female genitalia. While programs to address FGM/C initially focused on associated health risks, the practice was re-conceptualized as a human rights violation at the 1993 World Conference on Human Rights in Vienna. National legislation was subsequently established in many countries to prohibit the practice and to step up action against it and Eritrea accepted the convention 1995.³¹ Also Eritrea declared legislation related to FGM in March 2007.³²

Eritrean proclamation 158/2007 provided punishment to prevent FGM. Article 4(1) clarify whosoever perform female circumcision shall be punishable with imprisonment of two to three years and a fine of five to ten thousand Nakfa. If the circumcision causes death, imprisonment shall extend from five to ten years."³³ Despite this effort FGM is one of the worst traditional practices in Tigrigna society. The research also found that even though it decreased due to different reasons many women still believe for these practices. In addition as Abrehet Yemane informed, "it is still practicing even by the mothers of the

²⁹Janine Ubink (IDLO).2011.*Customary Justice: Perspectives on Legal Empowerment*, p 37

³⁰ ibid

³¹ Eritrean Proclamation, 158/2007

³² Eritrea Profile, March 21,2007

³³ Article 4 of 1, Eritrean Proclamation, 158/2007.p.4

ex-fighters who were earlier enlightened in the armed struggle."³⁴ This shows it will take time completely to change the attitude and to abolish not only by proclaiming laws but through an extensive public awareness. Because the society is not enlightened of human right that FGM/C is a harmful practice which continues to violate the women's rights.

Domestic violence

Violence against women" means all acts perpetrated against women which cause or could cause them physical, sexual, psychological, and economic harm, including the threat to take such acts; or to undertake the imposition of arbitrary restrictions on or deprivation of fundamental freedoms in private or public life in peace time and during situation of armed conflicts or of wars.³⁵

According to a United Nations in-depth study on violence against women, the most prevalent form of violence against women worldwide is domestic violence.³⁶ Domestic violence has been defined as a 'pattern of abusive and threatening behavior that may include physical, emotional, economic and sexual violence, as well as intimidation, isolation and coercion.

Violence against women in Eritrea was an issue that needed to be more effectively addressed. The definition of the phrase "domestic violence" may vary from society to society. The phrase "domestic violence" may be dissected into two and defined. The term "domestic" may mean relating to home or family affairs. The term "violence" may denote behavior that involves physical force emotion or abuses intends to hurt, damage or kill somebody. It is illegal, unjust and unwarranted exercise of force.³⁷ Domestic violence may, therefore, be restored through the uses of intimidation, physical violence, threats, coercion, emotional, sexual, or economic abuse to exert power and control over another person. Domestic violence within the context of gender equality addresses a quarrel within family members and particularly spouses. In the Eritrean context especially in Tigrigna society the victim of domestic violence is often a wife. This happened in different ways. Basically domestic violence is understood as physical intrusion but most of the time it is inherently psychological. This paper looks on the most aspect of domestic violence like wife battering, marital rape and insulting.

Traditionally, women were seen as less intelligent than men and less deserving of equal rights. Proverbs from the Eritrean and Ethiopian highlands demonstrate this prejudicial attitude; for example: "Just as there is no donkey with horns, so there is no woman with a brain". Thus male chauvinism and patriarchy were rationalized. Similarly, these proverbs demonstrate an acceptance of violence towards women; for example: "Women and donkeys need the stick" or "You must hit an ox at every turn and beat your wife every three days."³⁸

The unequal power relationship between men and women is also reflected in the fact that domestic violence is pervasive. Although men can also be subjected to domestic violence, the vast majority of victims are women and children.

³⁴ Interview with Abrehet Yemane Legal advisor of NUEW, April 25, 2013

³⁵ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 1995, p.5

³⁶ General Assembly. (2006). *In-depth study on all forms of violence against women*. Report of the Secretary-General A/61/122, p. 37.

³⁷ Campbell, Henry. (1990). *Black's Law Dictionary*. 6th Ed., St. Paul, MINN, West Publishing Co., p. 864-865

³⁸ Matsuoka, A. and Sorenson, J. (1999). *After Independence: Prospects for Women in Eritrea*, p.5

Domestic violence (wife beating) is common practice in Eritrean society; in some customary laws it is even specified on which part of the body the husband should or should not beat his wife.³⁹ Domestic violence was and still is understood as the ingredient for a good and disciplined marriage, and is not considered abnormal.

CONCLUSION

Many of the challenges women face in the country today have been influenced by the historical imbalance of power between women and men; social structural factors such as poverty and unemployment; and social problems that relate to these issues. The first and root cause of men's violence against women is the unequal power between the sexes. When examining the social position of women in the countries, the most common aspect that comes to light is the strong influence of patriarchal culture. Deep-rooted stereotypes of women and their roles and responsibilities persist in all Tigringna society. According to this traditional, patriarchal stereotype, women are believed to be subordinate to men, who dominate the public spectrum of society. Women are expected to take on the role of mothers, faithful wives and housekeepers, whereas men are seen principally as hard worker. Distribution of power plays a vital role in improving the functioning of customary justice systems because both men and women are going to have equal participation of in decision making process. A power system consisting of economic, social and political structures. The system defines what it means to be a woman or a man. The position of a woman and a man is, to a large extent, defined by what is valued in relation to gender roles in a society. In most societies the prevailing gender system is patriarchy, which entails men enjoying better positions than women. For example, this is manifested in the fact that man is considered the "head of the family" and that proprietary rights are usually passed directly from men to boys. The research has shown that decision-making powers are usually vested in the man while women are regarded as dependents and, therefore, are supposed to follow decisions and directions by the man. This applies equally to situations in consultations between husband and wife, where the man has the power to overrule his wife. The Eritrean constitution tried to prevent such discrimination for example" Article 16 Right to Human Dignity (1) The dignity of all persons shall be inviolable" which mean that all persons have inviolable rights regardless of race, ethnicity ,and gender difference. However, again, like most other societies Tigrinya group in resource management or control over resources is vested on the hand of man the man is regarded as the head of the household and this position gives him absolute control over all household resources such as livestock and income from agricultural production. The woman's contribution to decision-making is only recognized on matters that pertain to the children.

Gender-sensitive participation ensures that the opinions of both women and men should be heard in equal measure. In many cases the participation of both sexes can be promoted by setting female or male quotas, so that half of participants must be men and half women so this plays important role because it helps to identify their problem easily. But in Eritrea generally Tigrinya society specifically"women face formidable obstacles to participation in government, many of which stem from deeply rooted patriarchal structures and societal attitudes. Strategies for Change. Women are still often considered unequal to men—in the workplace, at home, in government—and assigned roles accordingly. This systematic disempowerment has left women with little presence in decision-making bodies.

On 22 September 2003, the Government of Eritrea enacted Proclamation 132/2003 to establish community courts and thereby accomplish certain objectives. The first objective is to enable greater

³⁹Pillay, N. (1994). *Customs and Rights in Eritrea*. Agenda Feminist Media. pp. 48-52

participation of the community in the judicial process and make the judicial process accessible to the larger community, the poor in particular. This objective is achieved by allowing the community to elect the judges of the community courts, at least one of who must be a woman, and by establishing hundreds of community courts. The effort was completely to make participant for women's they are part and parcel of the society. The second objective is to integrate customary dispute resolution mechanisms in the national legal system and thus alleviate the burden of higher courts. To achieve this two-tier objective, community court judges are allowed to reconcile disputants based on customary laws and practices. If the parties fail to reach a compromise, the community court judges then pass judgments based on national laws. Any disputant who does not agree with the judgment can appeal to higher courts. Settlement at the community courts of those disputes that would have been previously brought to the higher courts has alleviated the burden of such courts.