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Joint submission by:

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&

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www.sexualrightsinitiative.com



Key Words: early and forced marriage, girls' right to education, female genital mutilation, sexual rights, gender equality.

Executive Summary

1. This report is jointly submitted by the **Sexual Rights Initiative**¹ and an Eritrean activist who chooses to remain anonymous.
2. The report draws attention to the human rights violations experienced by young women and girls due to the upholding of harmful and discriminatory traditional and cultural practices; namely female genital mutilation (FGM) and early and forced marriage. As a result of these practices, young women and girls' experience challenges staying in school and completing their education, their right to bodily integrity is violated, their reproductive rights are violated by as they are often unable to decide if and when they want to have children, their ability to freely exercise their sexual rights is also violated, among other rights. **Eliminating harmful and discriminatory traditional and cultural practices is a first step in respecting, protecting and fulfilling young women and girls' rights, to their fullest extent, as well as empowering young women and girls to claim their rights.**

Context

3. Unlike many African countries, Eritrea gained its independence not because it was granted by its European colonizers, but after a 30-year armed liberation struggle against its African colonizer, Ethiopia. Though peace had prevailed between the countries from 1991 to 1997, a border conflict that lasted three years (May 1997 to December 2000) broke out between Eritrea and Ethiopia, claiming around 90,000 lives. Despite a peace agreement having been signed between Eritrea and Ethiopia, and the fact that although the final and binding boundary decision was made in accordance to this peace agreement in 2002, till this day Ethiopia occupies sovereign Eritrean territory. Although the liberation struggle led the way for women's emancipation and sexual rights, the return of conflict with Ethiopia has caused many set backs in the fight against poverty and the full realization and acceptance of women rights within Eritrean society .
4. Although laws and policies have not changed due to this conflict, in fact better laws and policies have been introduced and implemented over the last decade, resources and attention towards realizing the goals of such policies have been strained due to the conflict. Undoubtedly, if peace had prevailed between Eritrea and Ethiopia, attention towards poverty eradication, economic development, and efforts towards furthering the goals of women's emancipation would have progressed at a much faster rate.

¹ The Sexual Rights Initiative is a coalition including: Action Canada for Population and Development (Canada); Coalition of African Lesbians (Africa), Creating Resources for Empowerment and Action (India), AKAHATA (Latin America), Egyptian Initiative for Personal Rights (Egypt), Federation for Women and Family Planning (Poland), and others (www.sexualrightsinitiative.com).

5. Worth noting is that the emancipation of women was facilitated in Eritrean society due to the mass participation of women in the Eritrean liberation struggle. As the armed liberation struggle was also a social struggle, the active participation of women as well as the gender equality campaigns that took place within the revolution was a catalyst to the many laws that support the rights of women in Eritrea today.
6. The Government of Eritrea has signed various international conventions in regards to women and girls' rights, including the Convention on the Rights of the Child (CRC), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), and the African Charter on Human and People's Rights. Although a lot of progress has been made in terms of realizing women and sexuality rights, most notably the 2007 law which abolishes female genital mutilation (No. 158/2007), the existing structures for the advancement of women still need to be strengthened by adequate resource allocation, greater collaboration between government institutions and local civil society organizations, as well as sensitizing the general society.
7. Indeed there are no laws in Eritrea that directly discriminate against women. There are many laws that clearly state that a woman has equal rights to that of a man, including on issues of land ownership and citizen/nationality rights of children. Specifically,
 - the 1997 Constitution recognizes the rights of women, as equal to men, and women's participation in decision-making;
 - the revision of all Civil Codes inherited by Ethiopian colonization that was discriminatory towards women's equality in marriage and within the family, and
 - the exclusion of all discriminatory clauses from the Penal Code and subsequent adding of protective measures for women in Code

All are clear examples of measures taken by the government to promote gender equality, and eliminate gender-based discrimination. However, challenges remain in Eritrea is both in terms of gaining broader support for and understanding of these human rights and laws, as well as to ensure that they are respected, protected and fulfilled by the government.

8. Despite gender sensitive laws, and the elimination of discriminatory laws, harmful and discriminatory traditional and religious beliefs and attitudes towards women and girls persist. Despite the Governments' consistently advocates for the improvement of the status of women, much of the Eritrean society remains traditional and patriarchal, and women are subjected to perceived inferior status to men in their homes, communities, and work places.
9. Coupled with society's unwillingness to respond to laws which promote gender equality and are rights-based, is the failure of the government to effectively uphold efforts to reject such harmful and discriminatory beliefs and attitudes, results in human rights violations experienced by

women and girls. The human rights violations most concerning to women and girls include the upholding of the harmful traditional practice of female genital mutilation and early and forced marriage, which constitute violations of girls' right to bodily integrity, their sexual rights, their right to education and the right to live free from all forms of stigma, discrimination and violence.

Female Genital Mutilation Abolished by Law but still common practice

10. Female Genital Mutilation (FGM) is considered common practice in Eritrea. FGM is practiced amongst almost all ethnic and religious groups because of misconceptions on what is religious and what is cultural, as well as negative perceptions against women's sexuality and bodily integrity. The definitions of FGM in Eritrea includes the practice of partial or total excision of the clitoris; partial or total excision of the labia minora; the partial or total excision of the external genitalia (of the labia minora and the labia majora), including stitching; the stitching with thorns, straw, thread or by other means in order to connect the excision of the labia and the cutting of the vagina and the introduction of corrosive substances or herbs into the vagina for the purpose of narrowing it; symbolic practices that involve the nicking and pricking of the clitoris to release drops of blood; or the engaging in any other form of female genital mutilation and/or cutting.²
11. All of the aforementioned forms of female genital mutilation are forbidden by law in Eritrea. The Government issued a proclamation abolishing FGM in 2007.³ Those who perform, request, incite, promote or know that FGM will or has taken place but who do not inform proper authorities promptly about it, are all subject to punishment, ranging from imprisonment and a payment of a fine. It has been reported that in 2011, there were 54 cases in which legal actions were brought against perpetrators of FGM.⁴ According to a report compiled by UNFPA in 2011, the number of legal actions brought against perpetrators of FGM in Eritrea, in comparison with other African countries where FGM is practiced, is one of the highest.⁵
12. Prior to the abolishment of FGM, and continuing on to this day, the government and civil society organizations like the National Union of Eritrean Women (NUEW) and the National Union of Eritrean Youth and Students (NUEYS) conduct campaigns discouraging this practice. There is a robust monitoring and enforcement mechanism at the community level designed to ensure the law is enforced. There are anti-FGM committees throughout the country, which include members of the local police, religious leaders, and civil society activists against FGM. These committees report to the police and justice officials in instances where the law against FGM is

² The National Union of Eritrean Women. Resources. "Proclamation 158/2007 : A Proclamation to Abolish Female Circumcision. <http://www.nuew.org/resources>

³ Government of Eritrea. Proclamation 158 /2007: A Proclamation to Abolish Female Circumcision.

⁴ UNFPA-UNICEF Joint Programme on Female Genital Mutilation/Cutting: Accelerating Change, Annual Report 2011.

⁵ UNFPA-UNICEF Joint Programme on Female Genital Mutilation/Cutting: Accelerating Change, Annual Report 2011.

violated. In light of government and civil society efforts on this front, there is reason to believe that future generations will see the complete stop of this horrific practice. However, essential to the success of such efforts is their adequate resourcing, coupled with the effective monitoring of trends of the practice.

Early and forced marriage as a violation of young women and girls' Civil Liberties and Sexual Rights

13. Early and forced marriage is a harmful practice and a violation of human rights as enshrined *inter alia* in the Universal Declaration on Human Rights (UNDHR), the CRC and the CEDAW. Early and forced marriage constitutes a violation of the CRC principle of adherence to the best interest of the child and the evolving capacities of the child. At the root causes of early and forced marriage, are harmful gender norms, which create assumptions that the girl child need not be afforded the same human rights as her male counterparts. Such assumptions can lead to human rights violations which include the right to education, the right to be free from all forms of stigma, discrimination and violence, and the right to health, including complete comprehensive sexual and reproductive health and mental health, among many other human rights. According to the UNFPA, in Eritrea, 47% of women 20-14 years old were married or entered into a union by the age of 18.⁶ For reasons that are not clear, national-level activists and civil society organizations have recognized increases in instances of early and forced marriage in Eritrea over the last couple of years.
14. Early and forced marriage is prohibited by law in Eritrea; no boy or girl can get married below the age of 18. Unfortunately however, parents continue to allow girls to get married before they turn 18. Parents often allow this as they feel it will 'protect' her in the long run. Protection in this context refers to economic security as well as minimizing the risk of sexual activity prior to marriage. Another common belief is that the longer marriage is postponed, the more likely a girl would lose her virginity before marriage, if this happens, she is deemed unsuitable for marriage. As such early marriage is encouraged as a means preserving young women and girls' virginity and 'purity.' Such beliefs constitute violations of young women and girls' right to bodily autonomy and integrity, their right to make free and informed decisions, among other violations of their sexual and reproductive health which make unsure within the marriage – including forced pregnancies, intimate partner violence, among other violations of human rights.
15. Besides the fact that early and forced marriage violates a girl's right to choose her spouse, she also risks losing her right to continue her education as she may face often obligations to stay within the home permanently, to provide child or eldercare, or run the household. In terms of negative health consequences of early marriage, girls are known to be victims of complications when giving birth such as fistulas. As culture insists that married women have their first child within a year of the marriage, it is widely understood that young women and girls who are subjected to early and force marriages often become pregnant against their will. Although stigma and social pressures could entice a girl to accept her early pregnancy, it also widely understood that these cases involve situations of unwanted pregnancies.

⁶ UNFPA. *Marrying Too Young: End Child Marriage*. 2012.
http://www.unfpa.org/webdav/site/global/shared/documents/publications/2012/ChildMarriage_4_chapter3.pdf

16. Recent trends reported on by national-level activists and organizations have recognized the existence of a deep misunderstanding and/or lack of awareness of the legal context surrounding marriage. For example, many religious institutions are under the impression that they are responsible for the institution of marriage and therefore continue to conduct illegal marriage ceremonies. In many instances, religious institutions are conducting marriages not knowing that either partner is under the age of 18. Municipalities also play a role in upholding early and forced marriages as they are responsible for administering marriage licenses and certificates, which are mandatory for all citizens who plan and do get married. Government authorities continue to administer such licenses and certificates, despite their knowledge of one or both partners being under the age of 18. This situation represents a case in which the government is failing to effectively implement the law.
17. Raising the awareness of girls, parents, and the community at large of these laws, would constitute one way of deterring early and forced marriage. Still, the mechanism of reporting underage marriage has still yet to fully develop in Eritrea. Many are under the impression that the National Union of Eritrean Women (NUEW) is the institute to approach when reporting or preventing an early and forced marriage to take place, although there isn't any office there that overlooks such cases. Many people are not aware that they can also approach the police and their administration office to stop such marriages from happening.

Girls' Right to Education

18. Harmful and discriminatory traditional and religious, as well as economic and social factors have been found out to be major causes for discrimination experienced by girls' in regards to their right to education. It is recognized that customary and traditional attitudes of early marriage and heavily imposed domestic responsibilities limit their retention and lack of participation in school. There are also factors in the school, including inadequate educational facilities and materials at the school, school distance, and a shortage of female teachers that are identified as challenges to improving the enrolment of girls at the primary and junior level. The Ministry of Education has made attempts to challenge these contributing factors through the enforcement of the marriage law and building schools closer to communities.
19. Without an education, it is very difficult for girls and young women to know, understand and protect their rights, including their sexual rights, which includes their right to be free from FGM and underage marriage. Girls who are unable to continue their education because of FGM or early and force marriage, also risk violations of their right to health. Similarly, there is a direct link between maternal illness and death rates among girls who marry under the age of 18.
20. The Government of Eritrea does place special emphasis on girls' education by putting in place appropriate policies in place, including the promotion of equal educational opportunities for both genders, their access to quality educational institutions, ensuring access to education for

marginalized populations, among other strategies aimed at empower young women and girls to remain in school, and obtain the highest levels of education possible.

Recommendations

Measures to eliminate female genital mutilation

21. The Government must pursue educational efforts, including via media channels, to raise awareness against the practice, the proclamation that abolishes the practices, and the legal consequences of violating the law against the practice.
22. The Government, in collaboration with the Ministry of Education, must include information related to FGM in all sexual and reproductive health education curriculums in all junior and high schools.

Measure to respect, protect and fulfill girls' right to education:

23. The Government must continue to monitor and encourage girls' education by conducting public awareness campaigns both at the grassroots level through community organizing and at a national level through media channels.
24. Government and civil society must continue to raise the participation level of young girls in extra-curricular activities such as school clubs, discussion groups and debates.
25. The Government must give provide financial, or other, incentives to parents who send their daughters to school.
26. The Government, in collaboration with the Ministry of Education, must integrate, into all schools, specific curriculum on sexual and reproductive health and rights, with a focus on gender equality and human rights. Schools must also be supported to set up special meetings/seminars for parents and community leaders to raise their awareness of issues related to gender equality, and sexual and reproductive health and firths, as a means of fulfilling girls' right to education and their sexual rights and achieving gender equality.

Measures to eliminate early and forced marriage:

27. The Government must continue to build schools closer to villages as a means of reducing the early and forced marriage of girls.
28. The Government, at all levels, must establish multi-stakeholder committees to advocate against early and forced marriage (similar to the process followed for the elimination of FGM). Such committees must be empowered with adequate resources, training and knowledge regarding the legal context in order to raise public awareness on the issue and hold perpetrators of early and forced marriage accountable.