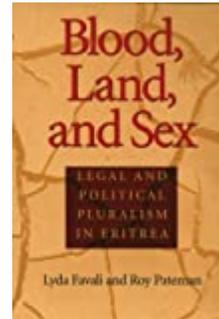




**Lyda Favali, Roy Pateman.** *Blood, Land, and Sex: Legal and Political Pluralism in Eritrea.* Bloomington: Indiana University Press, 2003. xvi + 352 pp. ISBN 978-0-253-21577-2; ISBN 978-0-253-34205-8.



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## Pluralism à la Pirandello

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Lyda Favali and Roy Pateman's *Blood, Land, and Sex: Legal and Political Pluralism in Eritrea* is both a welcome addition to the still-sparse literature on Eritrea in English, and a substantial and distinctive contribution to the literature on legal pluralism in Africa.

Much of the work on legal pluralism in Africa had been done by anthropologists or by scholars influenced by the anthropology of law. Typically, this involves the close study of a small number of cases (the "trouble cases" of the Llewellyn/Hoebel tradition) which illustrate and illuminate social conflict, contested or contradictory norms, or disputed identities. Favali (a lawyer and student of comparative law) and Pateman (a political scientist) adopt a different perspective in their study of legal and political pluralism in Eritrea. Taking their cue from the pluralist tradition in political science, they adopt a "strong" version of legal pluralism which postulates, at the macro level, the existence of multiple socio-political bodies, each of which produces law. They refer to these socio-political bodies as actors. Therefore by legal pluralism they mean "the study of the multiplicity of legal

actors concurrent with the state" (p. 2). One of the benefits of this perspective, they argue, is that it views the state as one actor among others rather than postulating the state as the dominant, even hegemonic actor. In the more anthropologically oriented work on legal pluralism, the key actors tend to be litigants, plaintiffs, defendants, judges, or juries, and the key texts are often trial transcripts and other court records. For Favali and Pateman, the key actors are those socio-political bodies which produce law such as ethnic groups, religious groups, the state, and transnational and international organizations, and the key texts are the legal codes (loosely defined) they have produced and, with varying degrees of success, tried to implement.

Throughout the book, several categories of "actors" are salient. Ethnic or national groups ("ethnies" is the term employed by Favali and Pateman), religious groups, the state, and various transnational or international actors all play roles and each of these categories can be broken down into more specific actors, many of whom have introduced their own legal codes. After a brief introductory chapter, Favali and Pateman introduce these actors

and their respective codes in chapters 2, 3, and 4. Chapter 2 offers a brief introduction to nine main ethnies of Eritrea and to more than twenty traditional legal codes. The chapter also introduces the two main religiously influenced codes, the Coptic Christian Fetha Negest (“Laws of the Kings”) and Islamic sharia. The state as an actor takes center stage in chapter 3. The chapter offers an overview of Eritrea’s many rulers or would-be rulers from Abyssinian and Ethiopian kings and Tigrinya warlords to the Italian colonial era, British military administration, and eventual incorporation into Ethiopia. As the authors recount, many of these rulers, particularly the twentieth-century ones, introduced new codes. Chapter 4 covers the transition to Eritrean independence and the current condition of the Eritrean state and legal system and also briefly considers the contemporary role of transnational and international actors (the UN, IMF, etc.).

Having introduced the actors and their codes, Favali and Pateman turn to a consideration of several areas in which these various actors and codes come into conflict. This is where the blood, land, and sex promised in the title make their appearance. Chapter 5 deals with murder, chapter 6 with land tenure, chapter 7 with land disputes and conflict resolution, chapter 8 with gender and gender relations (marriage, women’s property rights, etc.), and chapter 9 with female genital mutilation. These are all areas in which traditional law has long played and continues to play a major role in Eritrea. This is despite the fact that many attempts have been made by various actors to introduce often substantially different legal orders. Indeed, as they go through their discussion of these areas and as the various different actors enter into or disappear from the discussion and play different roles with respect to these different issues, the narrative (as the authors acknowledge) almost begins to resemble Pirandello’s *Six Characters in Search of an Author*. In chapter 5, for example, the state has an interest in suppressing the traditional use of blood feuds or blood money in response to murder and replacing it with state punishment. The limited resources of the state may mean that for now the suppression of blood feuds is all that can be accomplished and that blood money will continue to be a common response to homicide. The discussion of land disputes and conflict resolution in chapter 7 is unusual in that it not only includes the kinds of land disputes and conflicts that we would normally expect to see discussed (disputes between individuals, within or between lineages and ethnies or villages, and between the former and the state) but also includes discussions of two international land disputes—the dispute with Yemen over the Hanish islands and the border dispute (and eventual war) with Ethiopia.

In chapter 8’s discussion of gender and gender roles the impact of religion, and particularly Islam and sharia law, takes center stage. As the authors indicate, there may be a profound contradiction between the current Eritrean government’s commitment to women’s rights and sexual equality on the one hand and their commitment to religious freedom and, in particular, to the rights of muslim Eritreans. Currently “the bulk of state law on family and inheritance does not apply to Eritrean muslims; therefore they leave these subject matters to the exclusive competence of the Islamic courts” (p. 192). The conflict over female genital mutilation provides a striking example of transnational and international actors taking the lead in seeking to overturn traditional practices. The discussions of gender roles and female genital mutilation also prompt the authors to consider another potential actor, so far invisible but potentially very powerful, namely the women of Eritrea.

The book is well annotated and features a substantial selected bibliography. As both the notes and the bibliography make clear, the authors have made use of a wide range of sources in a number of languages and have made particularly extensive use of Italian works on Eritrea. One thing the book is missing, and which would be helpful at several points (for instance the account of Eritrea’s various ethnies and codes in chapter 2 or the discussion of the disputes with Yemen or Ethiopia in chapter 7) is a map or maps of contemporary Eritrea. Even those of us who own African maps and atlases do not all own sufficiently new ones or show independent Eritrea.

This is certainly a book that students of Eritrea and perhaps those interested in northeastern Africa more generally will want to add to their libraries. It deserves a wider audience as well. The authors themselves claim that their interdisciplinary approach will make the book useful to comparative lawyers, political scientists, anthropologists and ethnographers, sociologists, historians, and students of public policy and women’s studies. It can, they suggest, “form part of a college course for students of law, anthropology, and sociology” (p. xi). I think the book might prove a bit demanding for the average American undergraduate (though it might work in an honors course in, say, African studies or on the anthropology of law). The book is definitely suitable for graduate-level courses.

Whatever their specific disciplinary affiliation, and even (or especially) if they know nothing about Eritrea, I think serious students of legal pluralism in Africa will want to add this book to their libraries.

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