

Schnellrecherche der SFH-Länderanalyse vom 28. August 2017 zu Somalia: Situation von vergewaltigten Frauen

Fragen an die SFH-Länderanalyse:

- Wie ist die Situation von vergewaltigten Frauen?
- Erhalten sie Schutz vom Staat oder von ihrem Klan?

Die Informationen beruhen auf einer zeitlich begrenzten Recherche (Schnellrecherche) in öffentlich zugänglichen Dokumenten, die uns derzeit zur Verfügung stehen.

Situation von vergewaltigten Frauen

Viele der unten folgenden Informationen zur Situation der Frauen beziehen sich auf ganz Somalia, inklusive Somaliland und Puntland. Auch die von uns am häufigsten genutzte Quelle, der Bericht der Abteilung für Länderanalyse der schwedischen Einwanderungsbehörde, *Lifos*, bezieht sich auf Somalia inklusive Somaliland und Puntland.

Weite Verbreitung sexueller Gewalt gegen Frauen. Sexuelle Gewalt gegen Frauen ist in Somalia üblich und weit verbreitet (*Lifos*, Juni 2017; *UK Home Office*, 2016; *Human Rights Watch*, 2014). *Human Rights Watch* hat unter Berufung auf die Vereinten Nationen im Februar 2014 über nahezu 800 Fälle von sexueller und geschlechtsspezifischer Gewalt in Mogadischu in der ersten Hälfte des Jahres 2013 berichtet. Die tatsächliche Zahl liege wahrscheinlich viel höher.

Stigmatisierung von vergewaltigten Frauen. Eine Vergewaltigung wird oft als Schande betrachtet. Gemäss verschiedenen im Bericht von *Lifos*, der Abteilung für Länderanalyse der schwedischen Einwanderungsbehörde, zitierten Quellen (*Lifos*, Juni 2017) und dem Bericht des *US Department of State* über die Menschenrechtslage im Jahr 2016 (USDOS, 2017) werden vergewaltigte Frauen einer starken Stigmatisierung ausgesetzt. Weil Vergewaltigungsoffer als «unrein» bezeichnet werden, werden diese laut USDOS (2017) diskriminiert. Gemäss einem Artikel der britischen Zeitung «*Independent*» vom 6. Mai 2015 haben Opfer sexueller Gewalt in Somalia nach wie vor Verfolgung und soziale Ausgrenzung zu befürchten. Im Bericht von 2017 zitiert *Lifos* Informationen aus dem Jahr 2013, gemäss denen keine Frau, die einem Klan zugehörig ist, ihre Vergewaltigung bekanntmachen würde, denn dies würde eine Schande für den ganzen Klan darstellen.

Vergewaltigung ist gemäss Gesetz eine Straftat, es herrscht jedoch Straflosigkeit. Laut *Social Institutions and Gender Index* vom Jahr 2016 (*UK Home Office*, 2016) gibt es in Somalia keine Gesetze, die häusliche Gewalt, Vergewaltigung innerhalb der Ehe und sexuelle Belästigung verbieten. Vergewaltigung ist im Gesetz als Straftat



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festgelegt, welche gemäss USDOS (2017) mit Sanktionen von fünf bis 15 Jahren bestraft werden kann. Trotzdem wird das Gesetz nicht angemessen umgesetzt (*Lifos*, Juni 2017; USDOS, 2017; *UK Home Office*, 2016). Der *Social Institutions and Gender Index* spricht von einer «Kultur der Straflosigkeit» («*culture of impunity*») in Somalia in Bezug auf sexuelle und häusliche Gewalt. Gemäss dem Bericht von *Human Rights Watch* (2014) gibt es in Somalia eine hohe Straflosigkeit. Durch den Konflikt seien staatliche Institutionen, welche die am stärksten gefährdeten Personen beschützen sollten, zerstört worden. Laut dem Bericht belästigen, vergewaltigen, schlagen, erschliessen und erstechen bewaffnete Angreifer einschliesslich Mitglieder der staatlichen Sicherheitskräfte Frauen und Mädchen in Lagern für Vertriebene und bleiben dabei vollkommen ungestraft.

Bei Gerichtsverfahren stehen Anstand und Ehre des Opfers im Fokus anstelle der Straftat selbst. Gemäss dem Bericht von *Human Rights Watch* (2014) wird sexuelle Gewalt im Strafgesetzbuch vom Jahr 1962 unter den Überschriften «Verbrechen gegen Anstand und sexuelle Ehre» und «Straftaten gegen Moral und Anstand» anstelle eines Verbrechens gegen die körperliche Unversehrtheit, Autonomie und Würde eingestuft. Dementsprechend fokussieren Gerichte in ihren Urteilen laut *Human Rights Watch* auf die Ehre und den Anstand des Opfers ohne die Straftat an sich zu untersuchen.

Wegen Stigma und Straflosigkeit haben Frauen Angst, eine Vergewaltigung anzuzeigen; Polizei verhält sich bei Vergewaltigungsanzeigen zögerlich. Dem *Elman Peace Human Rights Center* (zitiert in *Lifos*, Juni 2017) und dem *US Department of State* (2017) zufolge haben Frauen, welche eine Vergewaltigung anzeigen, kaum Hoffnung, dass die Polizei ihnen glaubt und dass sie von der Polizei unterstützt werden. Wenn sie den Angreifer nennen würden, müssten sie gemäss *Elman Peace Human Rights Center* sogar den Tod befürchten. Laut USDOS (2017) verhält sich die Polizei bei Anzeigen von Vergewaltigungen zögerlich und beauftragte manchmal Vergewaltigungsoffer, Nachforschungen bezüglich ihres eigenen Falles anzustellen.

Die Bestrafung eines sexuellen Übergriffs wird oft zwischen den Klans ausgehandelt. Laut UN-Menschenrechtsrat (zitiert im Bericht des *UK Home Office*, 2016) werden Vergewaltigung und häusliche Gewalt als private Angelegenheit abgehandelt, welche oft mit einer Geldzahlung oder einer Zwangsheirat zwischen dem Täter und dem Opfer gelöst werden. Gemäss USDOS (2017) wird zwischen den Klanmitgliedern des Täters und denen des Opfers eine «Lösung» oder eine Entschädigung («*resolution or compensation*») für die Vergewaltigung gesucht. Einige Opfer seien gezwungen, den Täter zu heiraten (USDOS, 2017). Auch dem *Social Institutions and Gender Index* vom Jahr 2016 (zitiert vom *UK Home Office*, 2016) zufolge werden Konflikte traditionellerweise durch «Vereinbarungen» zwischen dem Täter und dem Opfer geschlichtet. Laut einer Fact Finding Mission von *Lifos*, durchgeführt im Jahr 2012, wird bei den Verhandlungen zwischen den Klans kaum die Perspektive des Opfers berücksichtigt. Es sei davon abhängig, welcher Mann das Opfer vertritt. Gemäss *Lifos* (2017) steht üblicherweise das Interesse des Klans im Vordergrund.

Mütter von unehelichen Kindern werden diskriminiert. Ihre Schwangerschaft wird als Verrat betrachtet, und die Frau wird oft von der Familie und vom Klan

verstossen. Laut dem Bericht von *Lifos*, der einen Bericht des *Immigration and Refugee Board of Canada* aus dem Jahr 1995 zitiert, wird eine Schwangerschaft einer unverheirateten Frau von ihrer Familie und von der Gesellschaft als Verrat an der Ehre der Familie betrachtet. Die Stellung und der Respekt der Frau werden innerhalb der Gesellschaft «schwer beschädigt» («*severely damaged*»). Das *Immigration and Refugee Board of Canada* meint in seinem Bericht aus dem Jahr 1995 ausserdem, dass die männlichen Familienmitglieder Gewalt gegen die Frau anwenden könnten. Allerdings komme es häufiger vor, dass die Frau verstossen wird (*Lifos*, Juni 2017). Gemäss der gleichen Quelle wird eine vergewaltigte Frau, die vom Klan verstossen wird zugleich von dessen Schutz ausgeschlossen. Die Frau könne weiterhin bei der Familie leben, falls diese sie akzeptieren würde. Diese biete allerdings nicht den gleichen Schutz wie der Klan.

Weibliche Genitalverstümmelung (*Female Genital Mutilation – FGM*) ist in Somalia weit verbreitet. Das *Population Reference Bureau* geht in seinem Update aus dem Jahr 2017 davon aus, dass mehr als 95 Prozent der somalischen Frauen genital verstümmelt sind. Somalia ist somit eines der Länder mit der höchsten Rate an weiblicher Genitalverstümmelung. Gemäss einem Bericht von UNICEF (ohne Datum) werden 95 Prozent der Mädchen im Alter zwischen vier und elf Jahren genital verstümmelt. Laut UNICEF ist FGM in der somalischen Kultur verankert. Obwohl die provisorische Verfassung weibliche Genitalverstümmelung gemäss USDOS (2017) als grausam und erniedrigend einstuft und verbietet, werde sie fast im ganzen Land ausgeübt.

Human Rights Watch, Februar 2014:

«Sexual violence is pervasive in much of Somalia. Two decades of civil conflict and state collapse have created a large population of displaced persons and other people vulnerable to sexual violence. At the same time it has destroyed the state institutions that are supposed to protect those most at risk. Armed assailants, including members of state security forces, operating with complete impunity, sexually assault, rape, beat, shoot, and stab women and girls inside camps for the displaced and as they walk to market, tend to their fields, or forage for firewood. Members of Somalia's long marginalized minority communities are particularly at risk.

The United Nations reported nearly 800 cases of sexual and gender-based violence in Mogadishu alone for the first six months of 2013. The actual number is likely much higher. (...)

The 1962 Penal Code classifies sexual violence under the headings of "Offense Against Modesty and Sexual Honor" and "Crimes Against Morals and Decency," rather than as an offense against bodily integrity, autonomy, and dignity. All forms of sexual assault should be considered as crimes against the individual, rather than crimes against norms or values. By focusing on a victim's honor and modesty, the Penal Code perpetuates the notion that a survivor of sexual violence has lost her honor or is immodest, and may serve to undermine justice by leading courts to focus on examining a woman's sexual history rather than the alleged violence committed against her by the accused.» Quelle: Human Rights Watch, "Here, Rape is Normal" A Five - Point Plan to Curtail Sexual Violence in Somalia, Februar 2014, S. 1, 37:

www.hrw.org/sites/default/files/reports/somalia0214_ForUpload.pdf.

Immigration and Refugee Board of Canada, 1995:

*«According to a professor of African and Women's studies at City College in New York, **the situation of an unmarried woman who gives birth to a child is extremely difficult in Somali society** (29 Nov. 1995). Somali society expects that women be under the protection or control of male kin. Women are seen as the preservers and upholders of family honour, and it is the responsibility of men to provide economic security and ensure that the family honour is respected (ibid.). Consequently, the institution of marriage and female virginity are important elements in preserving family honour. **An unmarried woman who becomes pregnant would be seen by the family and the community to have betrayed the family honour. As well, the woman's place or esteem in the community would be substantially diminished.** (ibid).*

*According to the professor, there are a range of possible courses of action for a family with an unwed mother. **At the most extreme, women have sometimes been killed by their fathers or brothers for becoming pregnant; more often a woman is banished from the family and other family members are forbidden to have any contact with her (ibid.). This means the unwed mother is isolated from the sole support system in Somali society, which is the family.** Women in this situation might try to make a living as a domestic worker across the borders in Ethiopia or Kenya, or might become a prostitute (ibid.). (...)*» Quelle: Immigration and Refugee Board of Canada, Somalia: Information on the treatment of women who bear children outside of marriage by Somali society, authorities and Clan Elder, 1995: www.refworld.org/docid/3ae6ad1520.html.

Independent, 6. Mai 2015:

«Somalia has been named as the worst country in the world to be a mother this week, according to new figures.

The Save the Children's annual Mother's Index Rankings revealed that the country was the worst in terms child mortality, maternal health, women's income and education.

*But the problems facing women's rights in the African nation don't end there. **Victims of sexual violence in Somalia are continuing to face persecution and social exclusion.***» Quelle: Independent, Rape victims still blamed for sexual violence in Somalia: <http://www.independent.co.uk/news/world/africa/rape-victims-still-blamed-for-sexual-violence-in-somalia-10229605.html>.

Lifos – Centre for Country Origin Information and Analysis, 1. Juni 2017:

«3. Sexual and gender-based violence

*The general security and governance situation in Somalia with a weak state and judicial system and years of conflict is a context that enables **sexual violence against women to be common and widespread. Rape is criminalized in Somalia, however, the law is not adequately enforced.** The situation is especially severe for internally*

displaced persons and persons of minority groups. According to the Human Rights Watch there were nearly **800 cases of sexual and gender-based violence in Mogadishu in the first half of 2013, with the actual number probably being much higher.**

Women who have been raped face stigmatization, consequently, few report that they have been assaulted. In Lifos' report *Kvinnor och barn i Somalia*, one source states **that no woman belonging to a clan would tell that she has been raped, since it would bring shame on the whole clan.** Internally displaced persons are especially common as victims of rape. A woman who lacks clan protection is more likely to be raped, which is often the case regarding internally displaced persons, and persons from minority groups. In Lifos' *Myndigheter och klansystem i Somalia*, the Elman Peace Human Rights Center states that **there is stigmatization of the rape victim and that many women fear reporting offenses.** The human rights center also state that **women who report rarely can have any hopes of being trusted or assisted. If they name the offender, they may risk more trouble, and might even get killed.**

If a woman would report a rape to the police, it most often does not lead anywhere. Since cultural and social norms discourage women from reporting, those few who attempt to report are blamed and stigmatized. In case the woman can name or point out the offender, the case can be solved between the involved persons' clans, within Xeer. Xeer is the customary law which involves negotiations between the Elders of the concerned clans to decide in the case of crime. If the offender denies the allegations the case will be discarded. US Department of State confirms that a woman reporting rape to the police will have little assistance from the local authorities. She might be asked to conduct her own investigation and rape cases are generally solved through negotiations between the clans. A rape victim might be forced to marry the offender. Rape survivors can be discriminated since they can be considered impure. For a more thorough read on the justice system and how it relates to Xeer and clan, please see Lifos' *Government and Clan system in Somalia, Report from Fact Finding Mission to Nairobi, Kenya, and Mogadishu, Hargeisa and Boosaaso in Somalia in June 2012, 2013.*

Under the 1962 Penal Code, sexual violence is considered a crime against honor, moral and decency. According to the Human Rights Watch, courts tend consequently to examine the victim's sexual history, honor and modesty rather than the crime itself. **Lifos notes that the negotiation between clans when solving a case within Xeer does not necessarily take the rape survivor's perspective, and to what extent the woman's perspective will be taken into account depends on the man representing her. More often it is the clan as a collective's interest that is prioritized, rather than the survivor's.** In August 2016, a new law was passed by the Puntland Parliament, criminalizing all sexual offenses, something that is described as a progress for women's rights by a United Nations Population Fund (UNFPA) gender analyst. To gain legitimacy, the law was designed to harmonize, not only with international law, but also with Sharia and cultural norms, involving Clan Elder's opinions. In December 2016, the law was used on a rape case, instead of the traditional way of settling such crimes within Xeer. One of the perpetrators was sentenced to 200 lashes and 10 years in prison as well as being fined. Lifos notes that this is one step toward a functioning

judicial system based on government decisions. It is also notable that shame is still a key concept in sexual offenses, as the Puntland Minister of Justice stated that the imposed lashes were included since the court wanted to shame the perpetrators like the perpetrators had shamed the victims. The Swedish Ministry for Foreign Affairs writes that it is uncertain which judicial system will eventually be the ruling one. (...)

5.3. Pregnancy out of wedlock

Would an unmarried woman become pregnant, it would be regarded by the family and the society as a betrayal of the family's honor. That woman's position and respect in society would be severely damaged. The male relatives might use violence against the woman, but seemingly it is more common that the woman is disowned. If a woman is disowned by her clan, she will not have access to the protection they can give. She might still be able to live with her family if they accept her, although this arrangement does not give her the same security as clan protection would. For a woman who is disowned, possible outcomes are household work in Ethiopia or Kenya or turning to prostitution. Another source confirms that the Somali community condemns women who become pregnant out of wedlock, that they consequently might be forced to live in the same areas as commercial sex workers do and that they might have to turn to prostitution themselves or start trading with qat in order to survive. The source states that the disownment from the family would depend on whether there is a male relative of some status that supports the woman or not. (...)

In a telephone interview, the Puntland Minister for Women Development and Family Affairs explains that a woman who has a child out of wedlock will be stigmatized. She will be talked about and people will possibly even attack her physically. The source claims that the physical and psychological abuse the mother will go through might cause her to commit suicide or deny that the child is not born out of wedlock.

A couple of sources mentions that the case of a pregnancy out of wedlock can be solved by a marriage arrangement between the two persons involved and that it would, as customary, be governed by their families. To preserve the family honor, a marriage could also be arranged between the pregnant woman and a man who is not involved, usually an older man. The woman's own wishes are not adhered and the man agreeing to marry her will be considered as doing the woman a favor. The wealth of the family affects available outcomes; a wealthy family is more likely to be able to convince the parts to agree on a marriage between the pregnant woman and the father. A wealthy family may also have the option to send the pregnant woman abroad for a caesarean birth to preserve the impression of the woman's virginity.

Lifos notes that while the close family may choose to support the woman who has become pregnant out of wedlock that still does not correspond to the value of real clan protection. The clan protection will be lost for the woman if she is disregarded by the Clan Elders.» Quelle: Lifos – Centre for Country Origin Information and Analysis: Women in Somalia - Pregnancies and Children out of Wedlock, 1. Juni 2017, S. 5-7, 13, 14:

www.ecoi.net/file_upload/1226_1497947430_170601300.pdf.

Population Reference Bureau, 2017:

«(FGM/C) occurs around the world. This wallchart provides updated information on the prevalence and context of FGM/C in the 29 countries for which representative, comparable data are available. FGM/C prevalence varies widely, ranging from approximately 1 percent of women in Cameroon and Uganda to **over 95 percent in Guinea and Somalia**, with prevalence variations within countries.» Quelle: Population Reference Bureau, Female Genital Mutilation/Cutting-Data and Trends-Update 2017, 2017, S. 2: www.prb.org/pdf17/FGMC%20Poster%202017.pdf.

UK Home Office, 2. August 2016:

«4. Sexual and gender-based violence in Somalia

4.1 Overview

4.1.1 The Social Institutions and Gender Index stated: ‘Somalia has laws prohibiting rape; however they are very rarely enforced. There are no laws prohibiting domestic violence, spousal rape or sexual harassment. ‘Whilst most incidents of violence against women go unreported, there is a culture of impunity surrounding sexual and domestic violence in Somalia. Customary approaches to dealing with violence against women typically involve making “arrangements” between the clans of the victim and the rapist. According to the United Nations Human Rights Council, rape or domestic violence is treated as civil dispute, often resolved through either the payment of money or a forced marriage between the victim and the perpetrator.

4.2.2 A Foreign Policy article, ‘Somalia’s Uphill Battle to Criminalize Sexual Violence’, dated 7 June 2016, stated that: (...)

“At present, if a woman who has experienced sexual violence wants to obtain justice through the legal system, she faces an extremely complicated and humiliating process, at the end of which a conviction is very unlikely,” said Antonia Mulvey, who founded Legal Action Worldwide, a law firm specializing in human rights that is providing technical support for the drafting of the Somali bill.» Quelle: UK Home Office, Country Information and Guidance; Somalia: Women fearing gender-based harm and violence, 2. August 2016, S. 10-15: www.ecoi.net/file_upload/1930_1470303013_cig-somalia-women-fearing-gbv-v3-0-august-2016.pdf.

UNICEF, ohne Datum (zuletzt abgerufen am 22. August 2017):

«Female Genital Mutilation (FGM) is defined as procedures involving partial or total removal of female genitalia or other injury to female genital organs. In Somalia, FGM prevalence is about 95 percent and is primarily performed on girls aged 4-11. FGM can have severely adverse effects on the physical, mental and psychosocial well-being of those who undergo the practice. The health consequences of FGM are both immediate and life-long. Despite the many internationally recognized laws against FGM, lack of validation in Islam and global advocacy to eradicate the practice, it remains embedded in Somali culture.» Quelle: UNICEF, Eradication of female genital

mutilation in Somalia, ohne Datum (zuletzt abgerufen am 22. August 2017), S. 3:
www.unicef.org/somalia/SOM_FGM_Advocacy_Paper.pdf.

US Department of State, 3. März 2017:

«Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women

Rape and Domestic Violence: The law criminalizes rape, providing penalties of five to 15 years in prison for violations. Military court sentences for rape included death. **The government did not effectively enforce the law.** There are no laws against spousal violence, including rape, although on May 27, the Council of Ministers approved a national gender policy that gives the state the right to sue anyone convicted of committing gender-based violence, such as the killing or rape of a woman. Somali NGOs documented patterns of rape perpetrated with impunity, particularly of female IDPs and members of minority clans.

Although statistics on cases of gender-based violence in Mogadishu were unreliable, **international and local NGOs characterized such violence as pervasive.** Government forces, militia members, and men wearing uniforms raped women and girls. While the army arrested some security force members accused of such rapes, **impunity was the norm.**

AMISOM troops committed sexual abuse and exploitation, including rape.

Women feared reporting rape due to possible reprisals. Police were reluctant to investigate and sometimes asked survivors to do the investigatory work for their own cases. **Traditional approaches to dealing with rape tended to ignore the survivor's situation and instead sought resolution or compensation for rape through a negotiation between clan members of the perpetrator and survivor. Some survivors were forced to marry perpetrators.**

For the most part, authorities rarely used formal structures to address rape. **Survivors suffered from subsequent discrimination based on the attribution of "impurity."** (...)

Female Genital Mutilation/Cutting (FGM/C): Although the provisional federal constitution describes female circumcision as cruel and degrading, equates it with torture, and prohibits the circumcision of girls, FGM/C was almost universally practiced throughout the country. UNICEF reported that 98 percent of women and girls had undergone FGM/C and that the majority were subjected to infibulation--the most severe form--which involves cutting and sewing the genitalia. At least 80 percent of Somali girls who have undergone FGM/C had the procedure performed when they were between the ages of five and 14. International and local NGOs conducted education awareness programs on the dangers of FGM/C, but there were no reliable statistics to measure their success. In March the prime minister expressed support for an international campaign, led by activist group Avaaz, to encourage the country to adopt a zero tolerance approach to FGM/C. The campaign collected more than 1.3 million signatures.» Quelle: USDOS - US Department of State:

Country Report on Human Rights Practices 2016 - Somalia, 3. März 2017:
www.state.gov/j/drl/rls/hrrpt/2016/af/265300.htm.