

## SOMALIA

Somali has not signed or ratified the Convention on the Elimination of all forms of Discriminations against Women (CEDAW).

### 1. Discriminatory family code

Due to the years of conflict and collapse of the state and its institutions, customary law (also referred to as *Xeer*)<sup>1</sup> and Sharia law in relation to family matters have taken the place of the legal and judicial system. As of 2013, a Provisional Constitution was still under review; the country has been ruled by a Transitional Federal Charter since 2004.<sup>2</sup>

According to the 1975 Family Code, the **legal minimum age for marriage** is 18 years for both men and women, but women can marry at the age of 16 years with parental authorisation.<sup>3</sup> Despite the law, **early marriage** is practiced in Somalia, with 2006 data showing that 22% of girls aged 15 to 19 were married, divorced or widowed.<sup>4</sup> A recent report by World vision suggest that 16.8 million women were married before the age of 18; 8% before age 15.<sup>5</sup> Although non-arranged marriages have become more common, reports suggest that arranged marriages, including forced marriages, still take place in the country.<sup>6</sup>

According to the Family Code of 1975, men are designated as the heads of families and the wives are obliged to follow their husbands. With respect to **parental authority**, both parents have duties. If a couple **divorces** or separates, the mother is typically granted custody of boys up to the age of 10 years and girls up to the age of 15 years.<sup>7</sup>

Despite having limited legal rights in the family, data indicates that, since the civil war, women in Somalia have increasing economic involvement and decision-making power within the household.<sup>8</sup> A 2002 survey found that 79% of women make decisions or are consulted on managing the family budget; 81% of women make decisions or are consulted on educating children; and 50% of women make decisions or are consulted on selling household produce (50%).<sup>9</sup> However, more recent data

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<sup>1</sup> *Xeer* is defined as “the set of rules and obligations developed between traditional elders to mediate peaceful relations between Somalia’s competitive clans and sub-clans” Norwegian Refugee Council, United Nations High Commissioner for Refugees, United Nations Human Settlements Programme (2008), p. 157

<sup>2</sup> United Nations Human Rights Council (2013), p. 19

<sup>3</sup> FAO (n.d)

<sup>4</sup> United Nations, Department of Economic and Social Affairs, Population Division (2008)

<sup>5</sup> World Vision **Error! Hyperlink reference not valid.**

<sup>6</sup> Immigration and Refugee Board of Canada (2007a)

<sup>7</sup> FAO (n.d.)

<sup>8</sup> Gardner, J. (2007). p. 2-3

<sup>9</sup> United Nations Development Programme and World Bank (2003)

indicates that, although, men’s economic and decision-making power continues to decrease at the household level, they remain in control outside of the household and in political life.<sup>10</sup>

The government of Somalia adopted **inheritance** rights based on the principles of Sharia law. As a result, daughters inherit only half the amount awarded to sons.<sup>11</sup>

### **More**

According to the 1975 Family Law, women have equal **rights to divorce**.<sup>12</sup>

## **2. Restricted physical integrity**

Somalia has laws prohibiting **rape**; however they are very rarely enforced.<sup>13</sup> There are no laws prohibiting domestic violence, spousal rape or sexual harassment.<sup>14</sup>

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.<sup>15</sup>

Although there is a lack of prevalence data, sexual and domestic violence is reported to be a serious problem in Somalia and recent reports suggest that it is increasing.<sup>16</sup>

Anecdotal reports from field workers suggest that although there has been a general increase in awareness about rape and **sexual violence**, there remains a reluctance to talk about gender-based violence. For instance, UNICEF reported that 76% of women 15–49 years old consider a husband to be justified in hitting or beating his wife, if his wife burns the food, argues with him, goes out without telling him or neglects the children or refuses sexual relations.<sup>17</sup>

### **More**

Women in Somalia continue to be subject to high levels of **conflict-related sexual violence** and domestic violence, where rape is often used as a weapon of war. Police and militia members have been found to be perpetrators of rape against women and rape has been commonly practiced in inter-clan conflicts.<sup>18</sup> Women living in Internally Displaced Person (IDP) camps are particularly vulnerable to rape, abduction and forced marriage,<sup>19</sup> and recent reports have documented a pattern of sexual exploitation by troops, in which sex is exchanged for food or money.<sup>20</sup> Between January and November 2012, the UN and its partner organizations documented over 1,700 rape cases.<sup>21</sup> According to data included in the US Department of State’s 2012 human rights report, from October

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<sup>10</sup> Food Security and Nutrition Analysis Unit Somalia (2012) p. 3; Gardner, J. (2007)

<sup>11</sup> FAO (n.d.)

<sup>12</sup> Immigration and Refugee Board of Canada (2007a)

<sup>13</sup> US Department of State (2013)

<sup>14</sup> US Department of State (2013), p. 37 - 38

<sup>15</sup> United Nations Human Rights Council (2010), p. 19

<sup>16</sup> United Nations Human Rights Council (2013)

<sup>17</sup> UNICEF (2009)

<sup>18</sup> US Department of State (2013), p. 37

<sup>19</sup> Office of the United Nations High Commissioner for Human Rights (2008)

<sup>20</sup> United Nations Human Rights Council (2013), p. 12

<sup>21</sup> United Nations Human Rights Council (2013), p. 11

through December, 522 rape cases were reported in Mogadishu, 40% reportedly committed by men in uniform.<sup>22</sup> In response, President Hassan Sheikh announced that government security personnel convicted of rape would face execution.<sup>23</sup> There is no national data on the number of convictions for rape cases, or any form of gender-based violence, however, the UN Human Rights Council reports that, in 2012, only a small fraction of cases against Somali Security forces (13) were opened in Military Court.<sup>24</sup>

Reports suggest that **trafficking** of women and girls has been a problem, linked to pirate activity in Somalia.<sup>25</sup>

There are reports of “**honour**” or “**revenge**” killings in reaction to rapes.<sup>26</sup>

Women’s physical integrity in Somalia is also compromised by limited **reproductive rights**. **Abortion** is only permitted to save the life of the mother.<sup>27</sup>

### 3. Son bias

The male/female **sex ratio** for the working age population (15-64) in 2013 is 1.3, the same value for the ratio at birth.<sup>28</sup>

#### **More**

There is evidence to suggest that Somalia is a country of no concern in relation to **missing women**.

### 4. Restricted resources and assets

Although women in the country are not prohibited from inheriting and acquiring land under the Agricultural Land Ownership Law of 1999, discriminatory customary and Sharia laws prevail in practice, thus limiting women’s **access to land**.<sup>29</sup> Under customary law or Xeer, women are not independent, legal people, and thus are largely excluded from owning land.<sup>30</sup> Further, most women do not hold title to their own land since they are guaranteed access rights to the land of their husbands or brothers.<sup>31</sup> According to a 2008 report from the Norwegian Refugee Council, UN HABITAT and UNHCR, low rates of land ownership by women is partially attributable to the fact that women have relatively little knowledge of their rights (or lack thereof) to land under the law, as well as other factors, including poverty and lack of confidence in the legal system in Somalia.<sup>32</sup> The latter has been confirmed by other reports, which indicate that the position of women with regards to land and property ownership has been weakened by both conflicts and the ensuing reconstruction process.<sup>33</sup>

Discriminatory practices also restrict Somali women’s **access to bank loans**. The 2007 MDG report for Somalia stated that women have limited control over family resources, particularly ownership of

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<sup>22</sup> US Department of State (2013), p. 37

<sup>23</sup> US Department of State (2013), p. 37

<sup>24</sup> United Nations Human Rights Council (2013), p. 11

<sup>25</sup> United Nations Human Rights Council (2010), p.21

<sup>26</sup> US Department of State (2013)

<sup>27</sup> UN DESA (2013)

<sup>28</sup> Central Intelligence Agency (2013)

<sup>29</sup> FAO (n.d.)

<sup>30</sup> FAO (n.d.)

<sup>31</sup> FAO (n.d.); Norwegian Refugee Council et al. (2008)

<sup>32</sup> Norwegian Refugee Council et al. (2008), p. 134, 163

<sup>33</sup> FAO (n.d.)

land, and therefore, limited access to collateral for investment and larger business enterprises.<sup>34</sup> According to the latest data from the World Bank, 0.8% of women, compared to 2.3% of men, had received loans from a financial institution in 2011.<sup>35</sup>

## 5. Restricted civil liberties

Ongoing conflict has caused a general loss of mobility in Somalia. The threat of different forms of violence, particularly sexual violence, continues to limit women's freedom of movement, while men are met with a general threat of violence, as well as forced participation in militia activities.<sup>36</sup>

Recent reports suggest that women are particularly concerned about the extreme interpretation of Sharia law by insurgent groups restricting women's **access to public space** and requiring women to cover their faces in contradiction with the accustomed practice of Islam and Somali culture.<sup>37</sup> There have also been reports in 2014 of al-Shabab militants imposing a dress code on women.<sup>38</sup>

In recent years women's networks have been increasingly campaigning for greater **political participation** for women and the protection of their human rights.<sup>39</sup> There has also been a surge in advocacy for women to participate in the national recovery process, obtain political rights and gain positions, both in parliament and the judiciary.<sup>40</sup> There is a 30% **quota** in place to increase women's political participation; however, women constitute 13.8% of the current Parliament.<sup>41</sup> In addition, efforts to ensure 25% of female representation in the transitional authority have resulted in securing only 12%.<sup>42</sup> However, a report in July 2013 indicated that the Somali Ministry of Social Affairs is in the process of drafting a new gender policy stipulating that 30% of Parliamentary seats be filled by women or left empty.<sup>43</sup>

### *More*

With respect to **rights at work**, women in Somalia are entitled to Maternity protection under the Labour Code and the Transitional Federal Charter. This covers women workers in the private sector, the public service and public institutions. The law provides for 14 weeks paid **maternity leave**, paid at 50% of wages by the employer.<sup>44</sup> However, with women's share of employment in the non-agricultural sector at 22% according to the latest World Bank data, it is unclear how many women benefit from such policies.<sup>45</sup>

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<sup>34</sup> United Nations Development Programme (2007)

<sup>35</sup> World Bank (2013)

<sup>36</sup> United Nations Human Rights Council (2010, 2013); Gardner, J. (2007), p. 3

<sup>37</sup> United Nations Human Rights Council (2010), p.13

<sup>38</sup> BBC News (2014)

<sup>39</sup> Gardner, J. (2007), p. 3

<sup>40</sup> United Nations Development Programme (2007), p.26

<sup>41</sup> Jibril, D. (2013)

<sup>42</sup> FAO (n.d.)

<sup>43</sup> Jibril, D. (2013)

<sup>44</sup> ILO (2011)

<sup>45</sup> World Bank (n.d.)

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