

Women in Somalia – Pregnancies and Children out of Wedlock



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1. Summary

This report explores the situation for women and children in Somalia with a specific thematic focus on the subjects of pregnancies outside of marriage and children born out of wedlock.

The report is based on desk research in open electronic sources together with interviews with informants with deep knowledge on the subject and the context.

Regarding unwanted pregnancies, a short overview of the practice of, and norms related, to abortions and family planning methods will be presented. Several sources indicate that such practices are not in harmony with Somali norms and culture.

The sources consulted for this report consequently describes that a Somali woman who becomes pregnant outside of marriage suffers from severe stigmatization. She will likely be rejected by her family and thus the essential protection and support the clan will provide in a country where no other trustworthy protection exists. Children born out of wedlock also suffer from stigmatization. They might also be abandoned which, consequently, may entail the risk of perishing.

2. Introduction

2.1. Background

The topic of female reproduction is of importance for the understanding of so called imagined communities. In short, the imagined community is the notion of belonging to a nation through shared values.¹ Nira Yuval-Davis, Professor of Gender and Ethnic studies, writes that the role of the woman in the imagined community is often that of reproduction in order for the community to survive and grow, and simultaneously she and her sexual behavior is an indicator of honor. Dishonorable behavior by a woman might affect the family or community she being is part of.² These roles combined contribute in explaining the situation for women in Somalia who become pregnant outside of marriage. The Somali context can be described as a patriarchal society, a label some of the sources in this report used to explain some features of the situation for women.

2.2. Scope of the report

This report will examine the situation for women in Somalia in relation to the main topic surrounding pregnancies out of wedlock. The report will also highlight unwanted pregnancies, the occurrence of abortion and the availability and access of contraception. Finally, the perspective of the child being born outside of marriage will be examined. The situation of the

¹ The “imagined community” is a concept coined by political scientist Benedict Anderson to analyze nations, presented by Anderson in *Imagined Communities* (1983)

² Yuval-Davis, Nira: *Gender & Nation* (2008), p. 23

children will be gender mainstreamed in order to take in to consideration the possible different situations for girls and boys respectively.

The report will not explain the dynamics of the clan system in Somalia, more than noting the importance of clan affiliation and protection for the individual and his or her safety. The clan system is omnipresent in Somalia, and an understanding of this system is essential for the understanding of the Somali society. Thus, it is also central for the understanding of the topics of this report.

The report is based on a combination of desk research in open sources and interviews via telephone and email.

As for the disposition, this report will give an account of sexual and gender-based violence, marriage, abortion and contraception in order to provide a background for the understanding of sex and pregnancies out of wedlock. This will be followed by a section on the child's perspective and lastly a short concluding section.

The sources used in this report are a mix of firsthand sources interviewed by telephone or email and secondhand information from open electronic sources. Some of the sources are anonymized according to their own wishes. A few of the interviewees do not share their name and in one case also the organization's name is excluded from the report. A main reason for desired anonymization is the sensitive nature of several of the topics of this report.

The report strives to have several sources confirming each piece of information. However, on a number of occasions in this report, there is a lack of such corroborations. In case of lack of corroboration or even contradicting information, this is made clear in the text.

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.³ 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.⁴ It is generally difficult to come across data on the prevalence of sexual and gender-based violence in Somalia. Lifos notes that a reason for this could be that the low rate of reporting makes the numbers somewhat irrelevant. Instead, the

³ US Department of State, 2016, p. 31

⁴ Human Rights Watch (HRW): *Here, rape is normal – A five-point plan to curtail sexual violence in Somalia*, 2014, https://www.hrw.org/sites/default/files/reports/somalia0214_ForUpload.pdf (Accessed 2017-05-15) p.1

occurrence of sexual and gender-based violence is sometimes described in words, as by the Swedish Ministry for Foreign Affairs, which writes that the rate of sexual violence is “alarming”, and US Department of State, which writes that sexual and gender-based violence is “pervasive”.⁵ US Department of State adds that also the armed forces of the Somali government, and of the African Union Mission in Somalia (AMISOM) forces have committed rape and sexual abuses. Although the army has arrested security force members accused of rape, impunity is the norm. Domestic violence is not criminalized, however, in a supplement to the law from May 2016; the state has the right to sue persons who are convicted of committing gender-based violence.⁶

Women who have been raped face stigmatization, consequently, few report that they have been assaulted.⁷ 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.⁸ Internally displaced persons are especially common as victims of rape.⁹ 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.¹⁰ 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.¹¹

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*.¹² *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.¹³ 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

⁵ Sweden: Ministry for Foreign Affairs: *Mänskliga rättigheter, demokrati och rättsstatens principer i Somalia 2015-2016*, 2017-04-26, p.7,

<http://lifos.migrationsverket.se/dokument?documentSummaryId=39480> (Accessed 2017-05-22); US Department of State, 2016, p. 31

⁶ US Department of State, 2016, p. 31

⁷ Migrationsverket, Lifos. Center för landinformation och landanalys inom migrationsområdet, *Kvinnor och barn i Somalia version 1.0*, 2013-06-05, p. 10-11

⁸ Ibid, p. 11

⁹ Ibid, p. 12

¹⁰ Ibid, p. 13-14

¹¹ Migrationsverket, Lifos. Center för landinformation och landanalys inom migrationsområdet, *Myndigheter och klansystem i Somalia version 1.0*, 2012-11-30, p. 15

¹² Lifos *Kvinnor och barn i Somalia*, p. 27

¹³ Ibid, p. 27

victim might be forced to marry the offender. Rape survivors can be discriminated since they can be considered impure.¹⁴ 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*, 2013.¹⁵

Under the 1962 Penal Code, sexual violence is considered a crime against honor, moral and decency.¹⁶ According to the Human Rights Watch, courts tend consequently to examine the victim's sexual history, honor and modesty rather than the crime itself.¹⁷ 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.¹⁸ 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.¹⁹ 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.²⁰ The Swedish Ministry for Foreign Affairs writes that it is uncertain which judicial system will eventually be the ruling one.²¹

¹⁴ US Department of State 2016 p. 31-32

¹⁵ 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, <http://lifosintern.migrationsverket.se/dokument?documentSummaryId=29575> (Accessed 2017-05-31)

¹⁶ HRW 2014, p. 37

¹⁷ Ibid, p. 37

¹⁸ United Nations Population Fund (UNFPA) Somalia: *Puntland passes law against sexual offences*, 2016-09-05, <http://somalia.unfpa.org/news/puntland-passes-law-against-sexual-offences> (Accessed: 2017-05-16)

¹⁹ National Public Radio (NPR): *Gang rape of two teens leads to an unusual step – a trial*, 2017-01-30, <http://www.npr.org/sections/goatsandsoda/2017/01/30/512050363/gang-rape-of-two-teens-leads-to-an-unusual-step-a-trial> (Accessed 2017-05-15)

²⁰ Ibid

²¹ Ministry for Foreign Affairs, Sweden:

Mänskliga rättigheter, demokrati och rättsstatens principer i Somalia 2015-2016, 2017-04-26, p. 3

4. Marriage

When looking at marriage in the Somali context, the concept honor is of importance. According to a US-based professor, a woman's duty in the family is to behave in a way that preserves the family honor. The marriage is an important institution and virginity a deciding factor for guaranteeing and preserving the family honor.²² The same source also claims that women sometimes have been killed by their fathers for becoming pregnant. It is, however, important to note that Lifos' *Kvinnor och barn i Somalia* affirms that so-called honor killings do not occur in Somalia.²³

A United Nations Population Fund (UNFPA) employee reports that it happens that persons who desire to have sex run away from their families and get married in secret. Such marriages may be intended to last only for a brief period of time or for a long time.²⁴ The source says that sex outside of marriage is "incredibly rare" and that these short term marriages are a little more common. There is no shame on the woman if such a temporary marriage ends quickly.²⁵ Lifos notes that having temporary marriages could be a strategy used in order to engage in religiously legitimized sexual relationships. Furthermore, divorce is not controversial in the Somali context; there is only the so called *iddah* period that must be respected in accordance with Islam. The *iddah* (waiting period) is the period of time after a divorce or death during which one will have to abstain from re-marrying. The UNFPA employee says that the family can have no remarks on the married couple once they are legally married even if the marriage was in secret. Thus, the runaway-marriage is also a possible way to marry someone that your family actually opposes.²⁶ However, Lifos clarifies that in case of a marriage between a person from clan and a person from a minority group, a runaway-marriage is not likely to be accepted.²⁷

4.1. Adultery and pre-marital sex

Sex outside of marriage is for a married person considered as adultery, *zinah*, in Islamic law. Under Al-Shabaab rule, *zinah* is interpreted in such a way that even a rape victim can be judged to be an adulteress. Al-Shabaab has, at least on a small number of occasions, punished adultery with death by stoning.²⁸ In 2008 there was a case of a 13-year old girl who was raped and reported it, but was sentenced by Al-Shabaab to death by stoning as an adulteress, a verdict that was executed a couple of days later. The case was

²² Immigration and Refugee Board of Canada, 1995

²³ Lifos: *Kvinnor och barn i Somalia*, p. 20

²⁴ UNFPA Somalia employees, telephone interview, 2017-02-28

²⁵ UNFPA Somalia employees, telephone interview, 2017-02-28

²⁶ UNFPA Somalia employees, telephone interview, 2017-02-28

²⁷ Migrationsverket, Lifos. Center för landinformation och landanalys inom migrationsområdet: *Somalia – Äktenskap samt vårdnad om barn*, 2009-06-17, p. 19-20

²⁸ Ireland: Refugee Documentation Centre: *Somalia – Information on whether young women who have children born out of wedlock are in danger of attack by Al Shabab or any other terror grouping in Somalia*, 2010-02-03

<http://www.refworld.org/docid/4b8fcb1f1a.html> (Accessed 2017-05-16)

reported by several sources, among them Amnesty International and UNICEF.²⁹

In 2009, BBC reported that a man was stoned for adultery, while the then pregnant woman he committed adultery with had her death penalty postponed until her child was born.³⁰ In September 2015, Al-Shabaab was reported to have stoned a woman accused of adultery in Barawe, lower Shabelle (Shabelle Hoose).³¹ The latest report of Al-Shabaab stoning a person for alleged adultery is from May 28, 2017, when a man was stoned in Ramo Adey, Bay. The man claimed to have married the woman in question, yet Al-Shabaab did not recognize the marriage and carried out the death sentence. The woman is reported to have been a divorcee and there is no information about the consequences for her.³² Another source says that the woman in this case accused the man of rape, however, Al-Shabaab decided to try the case as adultery.³³

According to Oxford Islamic Studies, an unmarried person who has sex is to be punished with one hundred lashes according to Sharia law. Oxford Islamic Studies also states that the death penalty by stoning for *zinah* does not have support in the Quran and that there must be four male eyewitnesses of an adulterous act, which makes the cases practically impossible to prove.³⁴ Another source confirms that the prescribed death penalty for adultery is not implemented due to the difficulty to fulfill the requirement of witnesses.³⁵ However, as mentioned above, Al-Shabaab has stoned people for adultery on a number of occasions.

A gender researcher interviewed by Lifos stated that the Somali view on sex outside of marriage is that it is a sin, unlawful and something that corrupts morality in the society. Sex outside of marriage must be completely prevented and avoided. A woman who is discovered to have sex outside of marriage will be subject to insults, discrimination and isolation. However,

²⁹ Amnesty International, public statement: Somalia: *Unlawful killings and torture demonstrate Al Shabaab's contempt for the lives of civilians* 2009-11-24; United Nations News Centre: Somalia: *UNICEF speaks out against stoning death of 13-year-old rape victim*, 2008-11-04, http://www.un.org/apps/news/story.asp?NewsID=28809#.UiUWK2Xn_IU (Accessed 2017-05-15)

³⁰ BBC: *Somali woman stoned for adultery*, 2009-11-18, <http://newsvote.bbc.co.uk/mpapps/pagetools/print/news.bbc.co.uk/2/hi/africa/8366197.stm?ad=1> (Accessed 2017-05-15)

³¹ United States Department of State: *Somalia 2015 Human Rights Report*, p. 5, <https://www.state.gov/documents/organization/252939.pdf> (Accessed 2017-05-15)

³² Hiraan Online: *Somali man publicly stoned to death by al-Shabaab militants for alleged adultery*, 2017-05-29, https://www.hiiraan.com/news4/2017/May/142356/somali_man_publicly_stoned_to_death_by_al_shabaab_militants_for_alleged_adultery.aspx (Accessed 2017-05-30)

³³ BBC: *Somalia's al-Shabab stones man to death for adultery*, 2017-05-29, <http://www.bbc.com/news/world-africa-40083361> (Accessed 2017-05-30)

³⁴ Oxford Islamic Studies Online, *Zinah*, undated, <http://www.oxfordislamicstudies.com/article/opr/t236/e0984> (Accessed 2017-05-15)

³⁵ Organization in Somalia, e-mail interview 2017-04-07

the researcher points out that not all women are treated equally, and that women of different class, clan affiliation and geographic location might have different experiences.³⁶ The Puntland Minister for Women Development and Family Affairs states that sex outside of marriage is totally unacceptable. A married woman who has sex outside of marriage would be regarded as an adulteress. She would be stigmatized, her husband would divorce her in order to punish her and she would be portrayed as a bad wife and bad woman.³⁷

According to the Puntland Minister for Women Development and Family Affairs, there have been cases of unmarried women who are known to have had sex willingly, but when discovered they turned the case into a rape accusation. In such a case, the matter is solved between the concerned clans and the accused might have to make financial compensation to the woman's family.³⁸ Lifos notes that this is a strategy a woman can use to protect her own interest, if she is confident that the clan will negotiate for her. However, the information contradicts the sources claiming that a rape survivor will face difficulties in having her case taken seriously. Again, it is likely that the woman's position in the community and clan affiliation will affect her chances to be represented by her Elders.

According to a gender researcher, a woman known to have had premarital sex may have difficulties getting married. Since the premarital sex is considered illegal and immoral, the family of a male suitor may not want to associate with such a woman nor accept her as a wife of their family member.³⁹

5. Reproduction and controversy

5.1. Contraception

In the Somali context, birth spacing or sometimes child spacing is the preferred term in comparison to contraceptives or family planning. Under the label birth spacing, the use can be considered not to interfere with the culture and the religion. In Puntland, religious leaders have approved the content of a book about family planning that is intended to be in accordance with Islam, with the objective to change birth spacing behavior. The book was made through cooperation between The Puntland Ministry for Health and the Ministry for Justice with support from the UNFPA.⁴⁰

³⁶ Gender researcher, e-mail interview 2017-03-13

³⁷ Hajimumin, Anisa, Puntland Minister for Women Development and Family Affairs, telephone interview, 2017-02-24

³⁸ Hajimumin, Anisa, Puntland Minister for Women Development and Family Affairs, telephone interview, 2017-02-24

³⁹ Gender researcher, e-mail interview 2017-03-13

⁴⁰ UNFPA: *Religious Scholars in Puntland develop birth spacing behavior change communication strategies*, 2017-05-26, <http://somalia.unfpa.org/en/news/religious-scholars-puntland-develop-birth-spacing-behavior-change-communication-strategies> (Accessed 2017-05-29)

In a USAID survey from 2008, with Somalis located in Kenya, the perception of contraceptives is negative among the participants, who argue that the negative view on the matter applies to society as a whole.⁴¹ The participants agreed that it is desirable to have as many children as possible, and that using contraceptives would be against the religion since one should have as many children as God wants one to. Having few children would also be negative for the family dignity, while having many would be necessary for the clan's survival.⁴²

UNICEF writes, similar to USAID, that there is a wish to have many children and that a common argument against contraceptives is that it is not in accordance with Islam.⁴³ The same report states that also male condoms are an issue, being seen as interlinked with infidelity and immorality. Sometimes they are being publicly burned. Al-Shabaab has condemned male condoms.⁴⁴ UNICEF understands the acceptance of family planning as being influenced by politics and culture, rather than religion.⁴⁵

A gender researcher describes that children are seen as an asset and that it is desirable to have a large family. Therefore, contraceptives are not encouraged, yet it is acceptable if the couple agrees on it.⁴⁶ The US Department of State claims that the man often is the decision maker when it comes to the couple's reproduction.⁴⁷ The sources thus differ somewhat on who the decision maker is regarding the use of contraception.

A UNFPA employee says that contraception and family planning are gaining a positive momentum in Somalia; however it only applies when labeled as birth spacing, not as family planning or contraceptives. Family planning is, according to the source, seen as foreign imposed phenomenon while birth spacing, again, can be applied in accordance with Islam. Types of contraceptives that are allowed vary by region, with some areas being more culturally sensitive than others. In areas with a more open attitude towards contraceptives it is also more common with trained personnel. In the northern parts of the country, Somaliland and Puntland, several kinds of contraception are available. The source mentions implants, injections, pills and condoms. In places with higher Al-Shabaab presence, implants and injections are not as common. In those areas, pills are easier to distribute, due to the fact that they easily can be disguised as other medication. The source says that the sensitivity of the subjects still makes it highly unlikely

⁴¹ United States Agency for International Development (USAID): *Somali refugee attitudes, perceptions and knowledge of reproductive health, family planning, and gender-based violence*, 2008, p. 23, http://pdf.usaid.gov/pdf_docs/pnaec190.pdf (Accessed 2017-05-15)

⁴² USAID, 2008, p. 20-23

⁴³ United Nations Children's Fund (UNICEF): *Somalia – A situation analysis of reproductive health*, 2009, p. 60, https://www.unicef.org/somalia/SOM_resources_finalRHSanalysis.pdf (Accessed 2017-05-15)

⁴⁴ UNICEF, 2009, p. 60

⁴⁵ Ibid, p. 21

⁴⁶ Gender researcher, e-mail interview 2017-03-13

⁴⁷ US Department of State 2016, p. 33

that contraceptives would be available in a pharmacy.⁴⁸ US Department of State writes that the access and information about contraceptives is limited and that the UN has estimated that 15 percent of women between the ages 15 to 49 use some form of contraception.⁴⁹ Lifos notes that there are different numbers regarding the prevalence of contraception, with 15 percent being the highest encountered during this research.

The Puntland Minister for Women Development and Family Affairs states that breastfeeding is a traditional way of birth spacing, which prevents woman from becoming pregnant again. As a method, it only works for a limited period of time though.⁵⁰ Moreover, a gender researcher describes breastfeeding for two years as a traditional family planning method.⁵¹ Lifos notes that in the Somali context, breastfeeding is sometimes suggested as an alternative, “natural”, way of family planning, further confirming that this is a culturally sensitive issue.

Abstinence in various forms is a re-occurring suggestion on acceptable family planning methods from the Somalis interviewed by USAID, and by some suggested to be practiced with consideration to the female’s fertility cycle. The method proves to be unsure because the informants in the report show incomplete knowledge of fertility cycles and even more so due to the fact that all informants say that abstinence cannot apply to the men, who have the right to have sex with their wife when they choose.⁵² Even if people would be willing to use child spacing methods, they would not risk putting themselves in the situation of social stigma attached to having fewer children and thus going against the cultural norm that favor many children. The primary role of the woman is to have children and families with few children are shunned.⁵³ Again, Lifos notes that the reproduction is interlinked with a woman’s honor which puts her in a position with few alternatives.

5.2. Abortion

After the adoption of the Somalia Provisional constitution by the National Constituent Assembly in 2012, abortion is illegal and may only be allowed to save the life of the mother.⁵⁴ Abortion is unacceptable in the Somali

⁴⁸ UNFPA Somalia employees, telephone interview, 2017-02-28

⁴⁹ US Department of State 2016, p. 33

⁵⁰ Hajimumin, Anisa, Puntland Minister for Women Development and Family Affairs, telephone interview, 2017-02-24

⁵¹ Gender researcher, e-mail interview 2017-03-13

⁵² USAID, 2008, p. 22

⁵³ Ibid, p. 23

⁵⁴ UNFPA Somalia employees, telephone interview, 2017-02-28; Guttmacher Institute, fact sheet: *Abortion in Africa*, 2016, https://www.guttmacher.org/sites/default/files/factsheet/ib_aww-africa_4.pdf. (Accessed 2017-05-17); United States Library of Congress: *Somalia: New constitution approved*, 2012-08-09, <http://www.loc.gov/law/foreign-news/article/somalia-new-constitution-approved/> (Accessed 2017-05-16) US News & World Report: *Somalia constitution allows abortion to save mom*, 2012-07-26,

context, according to several sources.⁵⁵ Lifos notes that the subject of abortion is sensitive, something that is made clear when trying to find information about it. Data on the frequency is scarce, and sources might be unwilling to share knowledge about abortions.

UNICEF refers to a survey from 2000 where 2 % of the women in Somalia are reported to sometime have sought termination of pregnancy. UNICEF argues that most of these abortion attempts are likely to have been carried out in an unsafe environment.⁵⁶ The Puntland Minister for Women Development and Family Affairs says that, despite the fact that it is not accepted in the society, women turn to unsafe abortions, and claim that they have had a miscarriage. The abortion is in such a case carried out in what the minister calls a traditional way, with traditional methods, without the presence of any skilled health care professional but instead with a traditional midwife.⁵⁷ A UNFPA employee confirms the taboo of the subject and describes that there is not much information on abortion, but if it occurs, then it occurs in concealment underground. The UNFPA employee says that the religious perspective on this question is very strong.⁵⁸

A source from an organization in Somalia reports that women who become pregnant out of wedlock are likely to have unsafe abortions. Even clinic staff can support unsafe abortions by giving women pills that sometimes lead to death by severe bleeding.⁵⁹

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.⁶⁰ 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.⁶¹ 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

<https://www.usnews.com/news/world/articles/2012/07/26/somalia-constitution-allows-abortion-to-save-mom> (Accessed 2017-05-15)

⁵⁵ Hajimumin, Anisa, Puntland Minister for Women Development and Family Affairs, telephone interview, 2017-02-24; UNFPA Somalia employees, telephone interview, 2017-02-28

⁵⁶ UNICEF, 2009, p. 65

⁵⁷ Hajimumin, Anisa, Puntland Minister for Women Development and Family Affairs, telephone interview, 2017-02-24

⁵⁸ UNFPA Somalia employees, telephone interview, 2017-02-28

⁵⁹ Organization in Somalia, e-mail interview 2017-04-07

⁶⁰ Immigration and Refugee Board of Canada, 1995

⁶¹ Ibid, 1995

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.⁶²

Further elaborating that some women have to turn to prostitution, one US-based researcher states that there is no existence for women who become mothers outside of marriage, not even if the pregnancy is the result of rape.⁶³

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.⁶⁴

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.⁶⁵ 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.⁶⁶

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.

Apart from the risk of being rejected from the family, a woman who becomes pregnant outside of marriage might be forced to have an abortion, according to UNICEF (2009). In general, pre-marital pregnancies are hidden and denied to the extent that the woman sometimes risks reproductive health problems.⁶⁷ According to an organization in Somalia, forced abortions do occur when a woman becomes pregnant out of wedlock. The family might use threats to force the woman into having an abortion. The source says that

⁶² Ibid, 1995

⁶³ Immigration and Refugee Board of Canada, 1995

⁶⁴ Hajimumin, Anisa, Puntland Minister for Women Development and Family Affairs, telephone interview, 2017-02-24

⁶⁵ Immigration and Refugee Board of Canada, 1995

⁶⁶ Ibid, 1995

⁶⁷ UNICEF, 2009, p. 70

this would not have consequences for the ones forcing the abortion because they are protecting family honor. For the family, the pregnancy with an unknown father is worse than an abortion.⁶⁸ This might be paradoxical information, since several sources emphasize that abortion is unacceptable. In the Somali statutory law, the 1962 Penal Code, there is information that might be used for the understanding of this paradox. Abortion - forced or with consent - is a crime and punishable with imprisonment, however the punishment is to be significantly shortened if the abortion was made to protect the honor of one self or a near relative. Note that this law must be read with caution due to the sporadic implementation of it. However, it might give some legitimacy to abortions forced on a woman pregnant out of wedlock in a context where the opinions are generally very negative towards abortions. On the other hand, it is doubtful whether the 1962 Penal Code, a leftover from Italian colonial influence, mirrors the norms and values in society. Although *Xeer* owns more legitimacy in the society, it does not exist on print. The practice in these matters is thus difficult to map. Islamic law can be said to have some legitimacy due to being somewhat transparent.

An unmarried woman who has had a child out of wedlock would have difficulties getting married, according to the Puntland Minister for Women Development and Family Affairs. If the woman's background is known in the community, it is not possible for her to get married. She would have to move away and try to find someone who does not know of her history and family. Even if she would find a spouse who accepts her background, his family would probably oppose. The source adds that in the Somali clan system almost everyone knows everyone, and therefore such a background would be difficult to hide.⁶⁹

An UNFPA employee report in a telephone interview that it is uncommon that children are born out of wedlock, and even if it happens, it is something that is not spoken about. If it is reported, it is linked to women becoming pregnant as a result of rape.⁷⁰

6. The child's perspective

6.1. Stigma and security

A child born out of wedlock would face discrimination and stigma, according to several sources.⁷¹ The Puntland Minister for Women Development and Family Affairs describes the situation for a child as a case of discrimination beginning right after birth, although the really difficult situation will arise when the child grows and goes to school or preschool,

⁶⁸ Organization in Somalia, e-mail interview 2017-04-07

⁶⁹ Hajimumin, Anisa, Puntland Minister for Women Development and Family Affairs, telephone interview, 2017-02-24

⁷⁰ UNFPA Somalia employees, telephone interview, 2017-02-28

⁷¹ Lifos: *Somalia – Åktenskap samt vårdnad om barn*, p. 28; Hajimumin, Anisa, Puntland Minister for Women Development and Family Affairs, telephone interview, 2017-02-24; UNFPA Somalia employees, telephone interview, 2017-02-28

where it will be bullied. According to the minister, there is no official protection in place for children born out of wedlock.⁷² The minister says that:

“A child like that, it’s not viewed as a human being [...]”⁷³

A UNFPA employee describes the discrimination a child born out of wedlock would face as a case of not belonging or being accepted in the community. The source claims that the issue of taboo around children out of wedlock as is not gaining a positive momentum.⁷⁴ A representative for an organization in Somalia describes that children born out of wedlock will be discriminated during their childhood, being called bastards and not being allowed to play with other children. As adults, it will be very hard for them to get married due to the lack of a family name.⁷⁵

The Puntland Minister for Women Development and Family Affairs says that the situation for a girl and a boy who were born out of wedlock would differ. For a girl, the situation would be more difficult in terms of bullying. The minister explains this with the fact that it is very difficult being a woman in Somalia.⁷⁶ A UNFPA employee says that the discrimination will be the same regardless of the sex of the child.⁷⁷ A gender researcher confirms that since Somalia is a traditional and patriarchal society, girls and boys will face discrimination and stigma differently. Girls will be subject to more serious discrimination just because of them being girls. The attitude will be that the girls will take after their mothers, who became pregnant out of wedlock.⁷⁸ Boys are not in the same way considered a mirror of their mothers. Another source claims that the situation will be harder for a boy during childhood, due to the fact that boys do not stay at home as much as girls are obliged to do. Boys will then have to face the stigma and shame to a larger extent than girls. Due to the role of men in the society, a boy born out of wedlock automatically lose the power and obligations given to them, such as being the carrier of the family name and protector of the girls and women at home.⁷⁹ The discrimination will generally continue also after the child has grown up and it will be hard for that person to get married.⁸⁰

Clan protection is in many cases the only kind of protection that exists for an individual in Somalia. Clan affiliation and family ties are inherited to a child from its father, which automatically excludes children with an

⁷² Hajimumin, Anisa, Puntland Minister for Women Development and Family Affairs, telephone interview, 2017-02-24

⁷³ Hajimumin, Anisa, Puntland Minister for Women Development and Family Affairs, telephone interview, 2017-02-24

⁷⁴ UNFPA Somalia employees, telephone interview, 2017-02-28

⁷⁵ Organization in Somalia, e-mail interview 2017-04-07

⁷⁶ Hajimumin, Anisa, Puntland Minister for Women Development and Family Affairs, telephone interview, 2017-02-24

⁷⁷ Interview 2017-02-28 UNFPA

⁷⁸ Gender researcher, e-mail interview 2017-03-13

⁷⁹ Organization in Somalia, e-mail interview 2017-04-07

⁸⁰ Organization in Somalia, e-mail interview 2017-04-07

unknown father from clan protection. Since a child inherits its father, the child is also disinherited. A UNFPA employee says that a child born out of wedlock would be deprived of a family name if the father does not accept the child.⁸¹ A gender researcher confirms that the father or his family might not allow a child born out of wedlock to carry their family name. If the identity of the father is not known by the mother, she will give the child her own family name. In some instances and for different reasons, a mother might not be willing to reveal the identity of the father even if she does know it. Instead, she will give the child her own family name.⁸² Another possible way the child can regain clan protection would be if the father in a later stage recognize the child as his. The source says that there is a case of a child born out of wedlock, where the woman claimed that she was secretly married to the man, thus the child being legitimate. However the father denied both the marriage and the child. Further on however, the child grew up and become established as a respected businessman, which subsequently led the father to recognize the child.⁸³

According to a UNFPA employee a child born out of wedlock will live by the mother's family in the daily life and might further be protected and supported by the mother's family. Whether the child will have actual clan protection or not, would be a matter of convincing the Clan Elders to negotiate for the child in the case that something happens that put the child in need of clan protection.⁸⁴ A gender researcher confirms that children born out of wedlock may have clan protection from their mother's side.⁸⁵ Lifos notes that the clan protection in some way acts like an insurance that might prevent people from abusing a person, if they know that he or she belongs to clan. A child born out of wedlock that will have to convince the Clan Elders to negotiate for him or her in case of a dispute, might not benefit from the discouraging effect the clan protection might have on a possible offender. Lifos also would like to draw attention to the fact that it is doubtful how likely it would be that the Clan Elders would take the part of a child who was born out of wedlock, considering the fact that both mother and child could be discriminated and condemned for the nature of the child's conception. There is a significant difference between having a family providing for the daily life and clan protection in the case of dispute. The gender researcher describes that the mother of a child born out of wedlock can give her baby her family name so that the child will have a name and some protection.⁸⁶ Lifos understands this as the child will at first glance seem to belong to clan and have protection, due to the family name, which might prevent problems. When viewed closer the child born out of wedlock

⁸¹ Interview 2017-02-28 UNFPA

⁸² Gender researcher, e-mail interview 2017-03-13

⁸³ Hajimumin, Anisa, Puntland Minister for Women Development and Family Affairs, telephone interview, 2017-02-24

⁸⁴ Interview 2017-02-28 UNFPA

⁸⁵ Gender researcher, e-mail interview 2017-03-13

⁸⁶ Gender researcher, e-mail interview 2017-03-13

cannot fully belong to the mother's clan. A UNFPA employee emphasize that a child of an internally displaced person is at particular risk.⁸⁷

A likely reaction to try and improve a child's protection and well-being would be to come up with a story that confirms that the child is not born out of wedlock, a story of a legal father who might be dead or absent. This procedure would also include inventing a family name for the child. An employee at an organization in Somalia describes that a mother to a child born out of wedlock can decide to move to a place where people do not know the father and then come up with a fake family name for the child.⁸⁸ Puntland Minister for Women Development and Family Affairs says that the mother might claim that she was married and make up a family name for a child born out of wedlock, for preventing stigmatization of the child. The mother would pick a random name.⁸⁹ One source, however, contradicts that she has not heard of mothers inventing family names for children with unknown fathers.⁹⁰ Another source explains that a child who is given the mother's family name will immediately be exposed as born out of wedlock.⁹¹ Lifos notes that it is very difficult to assess to what extent the phenomenon of made up marital status and family name occurs, since it is naturally not something that would be talked about if it happened. For the same reasons it is not possible to find out how common it is that people have children outside of wedlock. How safe such a practice would prove to be can be doubted, since someone taking a closer look would probably see through the cover up, due to the dynamics of the clan system.

6.2. Abandonment

A Child Protection Officer at UNICEF says that unmarried women who become pregnant often must abandon their child due to the stigma attached to it:

“There are many cases of abandoned infants who are found on the street, and if still alive, they are often given to orphanages.”⁹²

Also Lifos' thematic report *Somalia – Åktenskap samt vård av barn* describes that children born out of wedlock can be abandoned on a dumpsite or left at an orphanage. It even happens that the children are killed.⁹³ A Puntland Minister for Women Development and Family Affairs says that in a period of three years they collected over 120 abandoned children, children

⁸⁷ Interview 2017-02-28 UNFPA

⁸⁸ Organization in Somalia, e-mail interview 2017-04-07

⁸⁹ Hajimumin, Anisa, Puntland Minister for Women Development and Family Affairs, telephone interview, 2017-02-24

⁹⁰ Interview 2017-02-28 UNFPA

⁹¹ Organization in Somalia, e-mail interview 2017-04-07

⁹² United Nations Children's Fund (UNICEF) Somalia: *Child Protection Advocates provide safety nets for vulnerable Somali children*, 2011-02-24, https://www.unicef.org/somalia/reallives_7661.html (Accessed 2017-05-15)

⁹³ Lifos: *Somalia – Åktenskap samt vårdnad om barn*, p. 28

who were thought to be born out of wedlock. The Puntland authorities provide foster families for the abandoned children.⁹⁴

A gender researcher confirms that children born out of wedlock might be abandoned:

“A child born out of wedlock is at risk of being abandoned by his or her mother either at the hospitals or in the bush. This happens because women who get children out of wedlock receive no support from their families, and are often afraid of rejection by their families and wider society and therefore, they try to dispose of these children without the knowledge of their parents and communities.”⁹⁵

A source from an organization in Somalia stated that it is rare that children born out of wedlock are killed but informs about two recent cases, one in March 2017 in Mogadishu and another in November 2016 in Baidoa. Abandonment, however, is common, most often they are abandoned in the place where they were born. According to the source, the sex of the child would not determine whether the child will be abandoned or not.⁹⁶

7. Lifos' Conclusions

It is clear that a woman in Somalia who becomes pregnant out of wedlock risk discrimination both from her family and from the society. An important consequence is the risk of losing clan protection.

One should consider the possible multiplying effects of some premises regarding the subject of this report. Belonging to a minority clan in Somalia prevents the person from having the protection that clan affiliation would mean. Likewise, internally displaced persons would be more vulnerable. As the Puntland Minister for Women Development and Family Affairs put it, being a woman in Somalia is an unimaginable position, and a pregnancy out of wedlock would mean that the circumstances are even more problematic.

The deep sensitiveness of sex in general, being closely interlinked with a woman's honor, and somewhat regulated in the culture and the religion, is one explanation to why it is highly controversial to deviate from the acceptable sexual behavior and for example become pregnant out of wedlock. The heavy taboo surrounding illegitimate sex then spill over to the children born under such circumstances. The patriarchal structure can serve as an explanation to why women and children in general are worse affected than men.

The taboo surrounding inappropriate sexual behavior is illustrated by the fact that contraception is acceptable under different labels, being called

⁹⁴ Hajimumin, Anisa, Puntland Minister for Women Development and Family Affairs, telephone interview, 2017-02-24

⁹⁵ Gender researcher, e-mail interview 2017-03-13

⁹⁶ Organization in Somalia, e-mail interview 2017-04-07

child- or birth spacing, together with the fact that several sources chose to talk about breastfeeding as a family planning method.

For some of the issues in this report, the situation might be trending towards less taboo and more freedom for the women. That is the case with contraceptives. However, topics that include norms and cultures can be said to change slowly in general, why inappropriate sexual behavior will probably continue to have consequences in Somalia in the foreseeable future. The future for Al-Shabaab might also affect the situation for women since they appear to be the most oppressive force towards women in the country.

Clan is of the highest importance when looking to understand the Somali society. Clan protection and negotiation is the base of a person's security. Children born out of wedlock lack clan affiliation and consequently are at risk. Women who become pregnant out of wedlock risk disownment, why they might also lose clan affiliation and protection.

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Lifos' mission: Lifos is an expert body which acts impartially and proactively to contribute to legally secure and effective migration processes through reliable, relevant and easily accessible country of origin information and analysis.

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