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Report

Somalia: Marriage and divorce



LANDINFO

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SAMMENDRAG

There are no systematic studies of marriage and marriage patterns in Somalia. Family structures in Somalia are evidently still relatively traditional and thus resembles the organization of family life that is also found in other parts of the African and Arab (Muslim) world. Most Somalis relate to extended family networks where gender is the factor that determines roles and division of labour. The husband is the head of the household. It is difficult to know to which extent Somali women and men are free to choose their spouses. There is probably some variation between different regions, clans and economic classes, but the couple's parents arrange most marriages. Divorce statistics are non-existent for Somalia, but the vast majority of sources describing Somali family life and marriage, believe that divorce is relatively common.

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1. INTRODUCTION

No systematic studies of marriage and marriage patterns has been carried out in Somalia. This report is based on information from various Somali resource persons in and outside Somalia, as well as articles on family structure, marriage and cohabitation written by anthropologists and Somalia experts. Anthropologist and Somalia expert Ioan M. Lewis gives a relatively in-depth description of traditions in northern Somalia, and Somali journalist Mohamed Diriye Abdullahi also describes marriage traditions in the Somali society. However, hardly any fieldwork has been carried out over the last twenty to thirty years due to the fragile security situation in most parts of the country. This report deals mainly with the situation in southern and central Somalia, but also covers the breakaway Republic of Somaliland.

We have used Somali spelling for Somali terms.¹ The report is an updated and revised version of the report with the same title from April 2014.

2. GENERAL INFORMATION ON MARRIAGE AND FAMILY LIFE IN SOMALIA

Family structure in Somalia is still relatively traditional and thus resembles how family life is organised in other parts of the African and Arab (Muslim) world.

In a Somali and African context, marriage (*guur*² in Somali) and the founding of a family are not seen as an individual choice, but rather a social commitment. The social pressure to conclude marriage is also strong, especially in regards to the first marriage (Nuune 2011). In the Somali tradition, marriage is concluded through negotiations and agreements between the families, but also upon the initiative of the young persons themselves (see also chapter 4).

Most Somalis relate to extended family networks where the distribution of roles and work is gender-specific and where the man remains to be the head of the family.³ Marriage is also the only legitimate context for sexual activity in Somalia. There is also a clear expectation of reproduction after the marriage has been entered into.⁴ From this perspective, first-time marriage with a woman passed fertile age is not common. Of course, significant age differences in the woman's favour are not only unusual among Somalis, but also in most cultures – including our own. There are cases among Somalis where the woman is older than the man, but in these instances, it is likely that

¹ The exception is words with the language sounds reproduced with x in Somali orthography. Here x is replaced by h (which reflects the closest language sound in Norwegian). The forms of x are given in brackets.

² The word *guur* has two meanings on Somali: marriage and moving. A young man standing on his own feet is called in Somali a *guurdoon* - he who is looking for marriage.

³ According to Muslim tradition, a woman does not become part of her husband's family by marriage, but continues to be part of her father's family. Thus, in the Somali clan system, the woman also maintains her clan affiliation (i.e. her father's clan affiliation) when she marries. As such, she is not incorporated into the husband's clan (The Academy for Peace and Development 2002).

⁴ Somalis have on average six children. A large number of children is associated with resources, status and pride, and male descendants mean that the clan is given strength (Lewis 1994, p. 63). When parents grow old and no longer can support themselves or need help and care, the responsibility is the children's (Gabowduale 2010, 49, Abdullahi 2001, p. 127).

the circumstances are special – for example that the woman is very wealthy, or other factors that could compensate for the age difference in the woman’s favour.

Islamic principles of equality are given considerable weight, which means that there should be social and economic equality between the bride and groom. Most families will not accept their children marrying below their social rank, and the capacity to support is a precondition for a husband to be able to get married. The bride can be raised to the bridegroom’s social level by marriage, but a weaker social position of a groom will not readily be accepted (Dahl 1992, p. 65). If there is inequality between the spouses, it should be in the favour of the man.

3. FAMILY LAW OF 1975

The 1975 Family Law (Emory University School of Law 2015) is still in force in Somalia.⁵ It sets the marriage age for both parties at 18 years – 16 for girls with the consent of a guardian. The ordinary justice system was dissolved in 1991. Although the justice system is gradually being rebuilt, it appears that the legislation is still not effectively enforced. Somalis mostly defer to sharia – and Somali tradition – in matters concerning the family, as was also the case before 1991. According to sharia and Somali tradition, both parties are ready to get married once they have reached puberty. Not least in rural areas, it is not uncommon for girls to marry at fourteen, sometimes even younger, see also section 5.4.

3.1 NEW LEGISLATION

The draft new constitution for Somalia appears to set the marital age of women at 15 (Somali diaspora researcher, meeting in Mogadishu, 10 November 2013).⁶ In the Constitution, article 28 on Family Care deals, among other things, with marriage, and here it is referred to the age of maturity, without it being defined in further detail (Provisional Constitution 2012). However, in sharia and Somali tradition, both parties are able to get married once they have reached puberty.

It has never been possible to conclude a civil marriage in Somalia.

4. FREE CHOICE OF PARTNER OR ARRANGED MARRIAGE?

The Mogadishu-based women’s organisation Somali Women Development Centre (SWDC) reported in November 2013 that marriage is entered into in three ways:

- The couple asks for permission to marry from the father, alternatively from the guardian
- Elopement/secret marriage

⁵ The same applies in the breakaway Republic of Somaliland, but also there, sharia is applied in civil matters, see Somalilandlaw.com (n.d.) and Abdi (2010).

⁶ The draft constitution has not yet been considered in Parliament as of June 2018.

- Arranged marriage

This information complies with written information about the subject and information Landinfo has obtained on fact-finding missions to Nairobi, Mogadishu and Hargeisa over the last decade.

4.1 FREE CHOICE OF PARTNER?

It is difficult to know how free Somali women and men are to choose a spouse on their own. Probably, this varies between different regions, clans and economic classes, but the couple's parents arrange most marriages. Arranged marriages are especially prevalent when persons marry for the first time, and by this enter adulthood.

In rural areas, young people meet in various contexts – at the well, in the market and at weddings – but meeting in private is not accepted. Of course, this does not rule out romance at a distance. If his family approves the husband's choice, the suitor's father, or the closest male relative, may contact the woman's family (Abdullahi 2001; Lewis 1994).

Among the nomadic clans in the north, most people prefer the spouse to belong to a different clan than their own. Marriage among people in the north has traditionally been used to create an alliance between two previously unrelated families – i.e. potentially hostile groups. Among the agropastoralists in the south, however, the preferred partner is a close relative, such as the father's brother's son or daughter (see more about this in section 6.3).

In the capital, however, it is not uncommon for the husband and wife to meet each other, fall in love and think of marriage without the parents being involved before the couple has decided on each other (Somali resource person, email 2014, Washuk 2016). A young couple who are both studying will usually wait to plan their marriage until they finish their studies, although this depends on the financial position of the future groom. The couple will get to know each other and not least discuss what kind of furniture the man will buy for his bride and their shared home.

During this time it is common – and indeed important – to introduce the suitor to the family. Usually, the suitor is accepted, but should the family oppose the marriage, it can cause problems for the couple. The woman's family will examine the man's background, his clan affiliation, morals and habits (does he chew khat or not?), education and work. Similarly, the husband's family will examine the woman's background to see if she and her family have a good and respectable reputation.

The families discuss the bride price and determine the dowry the woman should have. In the capital, the dowry is preferably given either in either gold or cash.

4.2 ENGAGEMENT

The engagement does not imply any legal obligation to get married, nor do the gifts that the families exchange in connection with the engagement agreement have to be returned (Van Notten 2005, p. 60; Lewis 1994, p. 36). However, a man who marries a woman who has already been promised to another must pay compensation to the family of the disappointed suitor (Van Notten 2005, p. 58).

4.3 ARRANGED MARRIAGES

Arranged marriages are the norm in Somalia. In such marriages, the fathers of the couple, or the guardians, agree that the couple will marry (The Academy for Peace and Development 2002). The family has a major influence on the eligibility of marriage candidates, especially for the first marriage. The decision of marriage is only to a small extent left to the two people getting married. Both “arranged marriages” and “forced marriages” are arranged. The transition between arranged and forced marriages may be gradual.

However, in arranged marriages, there is in principle more or less explicit consent from both parties. Forced marriages, on the other hand, involves very little or no consent at all. At the same time, very few women go against their family, i.e. the father’s or the guardian’s choice (SWDC 2013; woman with a diaspora background; conversation in Mogadishu 2013; Abdullahi 2001). The difference between an arranged marriage and a forced marriage can thus be very subtle. Somali children are raised to respect their parents, to listen to their advice and to receive their blessing on important choices in life (Abdullahi 2001; Helander 2003).

Lack of respect for parents and their advice, on the other hand, is cursed. A woman with a diaspora background (conversation in Mogadishu 2013) described this as follows: Somali fathers will ask their children whether to bless them or curse them, and the choice is entirely “natural” for the vast majority. Then, the father will say that he has chosen a spouse for them. In such a situation, it is almost unthinkable to object. Respect for the parents and their choices is also reflected among young Somalis in the diaspora (Washuk 2016).

The choice of spouse is based on two factors: the bride price (yarad) offered to the bride’s father, and the alliances that the marriage may create. The bride price is the payment for the woman’s ability to work, the ability to give birth and the moral standard that will benefit the groom and his family.⁷

Among the nomadic groups, as mentioned earlier, marriages with members of neighbouring clans are important, since such alliances contribute to ensuring access to water and grazing areas. A longstanding tradition is also to seal peace agreements between clans by exchanging brides between the parties.

Nevertheless, traditions related to marriage and ways of choosing a spouse, like other traditions, have changed over the past few decades. Centre for Research and Dialogue (CRD) in Mogadishu conducted a project in Southern and Central Somalia in 2002-2003 evaluating the effects of the civil war on the population. The report *Somalia: Path to recovery building a sustainable peace* (CRD 2004) is based on interviews and consultations with more than 13,000 people in all parts of the country. It is written in the report (page 37):

In the decade and a half since the onset of the Somali crisis, the institution of marriage has undergone such a transformation as to be almost unrecognizable today. Many weddings now occur without the involvement, knowledge or blessing of parents. There has been a dramatic increase in the rate of teenage

⁷ The father of the man - or the closest male relative - addresses the girl’s father and requests permission for his son to marry the daughter of the house. The families agree on a date for the marriage, how to allocate the cost of the wedding, the bride price and the residence for the couple.

marriages and a proportional increase in the rate of teenage divorce – often leaving young mothers alone to raise their children. In the absence of parental involvement, newlyweds often lack the kind of financial and moral support that once ensured the durability of marriages.

4.4 FORCED MARRIAGES

The central terms for marriage in Somali practice correspond to those found in Islamic law. In sharia, both spouses consent to marriage. However, as mentioned, few will refuse, and should they refuse, the refusal has little practical relevance (Nuune 2011). The extent of forced marriages, that is, how often women, through physical or mental coercion, are forced into a marriage against their will is impossible to quantify.⁸ Somalis, according to a young female Somali resource person with a diaspora background (meeting in Mogadishu, November 2013), claim that forced marriages do not occur because coercion is defined as the use of physical force. However, a number of other local and international conversation partners that Landinfo has discussed this topic with pointed out that women who refuse to get married are at risk of being exposed to violence. See also Landinfo 2012: Al-Shabaab and forced marriage.

4.4.1 Reactions to women who oppose marriage

Women who refuse to marry the person chosen by the family are at risk of violence (conversations with international and Somali resource people in Nairobi, 2002, 2004, 2005 and Mogadishu 2013). The extent of such violence is unknown, but killing women is not socially accepted. Somalia has no tradition for so-called honour killings, in the sense that the environment expects and accepts killing women who have transgressed certain social norms, such as having children out of wedlock.⁹ The fact that honour killings are not a cultural practice in Somalia, however, obviously does not rule out murder caused by jealousy or crimes of passion committed against women. An unfaithful woman does not risk being killed by her family for the honour of the family to be restored and her disgrace removed, but a jealous husband may still kill her.

Those who break traditional social norms and refuse to marry the person whom the family have chosen cannot count on help or protection from the family or other clan members.

Thus, opposing the family's choice can lead to a woman being banished by her family, having to leave both them and her home. Without other welcoming relatives or acquaintances, her life will be very difficult. However, there are differences: urban educated women, in contrast to rural women with little or no education, may have better opportunities to establish themselves and get an outcome. However, in general, young, banished women are vulnerable to abuse and exploitation (conversation with

⁸ Traditionally, a rapist is also ordered to marry his victim. The woman has the right to refuse, but according to van Notten (2005, p. 57), the woman is effectively forced to marry. It is difficult to assess how widespread this is today.

⁹ Such killings will also not remove any of the disgrace that affects members of the family of women who violate the code of honour and propriety. A female Somali expert reported to Landinfo in Mogadishu in November 2013 that, although honour killing has no tradition in Somalia, she believed that persons who come out as homosexuals or who convert to Christianity are at risk of being killed by their own family.

UNIFEM in Nairobi, April 2002, Somali resource persons in Nairobi, March 2010 and March 2011).

4.5 SECRET MARRIAGES – ELOPEMENT (*QUDBO SIREED*)

Secret marriages (*qudbo sired*),¹⁰ or elopement as it is in reality, have been both common and accepted throughout Somalia (Abdullahi 2001, p. 130; Migration Works 2009, p. 15; SWDC 2013; Helander 1991). Such marriages occur without the consent of the family; either because the families do not know about the marriage plans or because they have refused to accept the suitor.

In order for such a marriage to be valid, the couple must have travelled a certain distance from home – traditionally, this distance should approximate a three day trip by camel (an estimated 90 km). Because the distance is suitable, the coastal city of Merkur and the town of Wanlaweyne in Lower Shabelle have therefore been popular destinations for young couples from Mogadishu who want to marry without consent (CBC 2013). Although tradition indicates that the distance should be about 90 km, this may nevertheless vary. Much depends on what the person who will conduct the marriage ceremony thinks is acceptable and what the couple themselves tell this person.

The ceremony is performed by a sheikh or by someone else with religious competence.¹¹ Since the woman is not represented by the father in these circumstances, the person takes the father's place as a guardian. Like all other weddings, two witnesses must be present, and there must be a marriage contract, *nikaah*. However, since the families are not involved, the groom does not pay a bride price. It is precisely this economic aspect that has been pointed to as a reason why this custom seems to have become more prevalent in recent years.

Al-Shabaab banned such marriages because they were not in line with their interpretation of Islamic law (CBC 2013; Nor 2012). The validity of such marriages is controversial among Somali theologians (female Somali resource person, conversation in Mogadishu, 10 November 2013). One of the arguments against the custom is that the woman travels openly without a guardian and with a man she is not married to, which is contrary to Islamic tradition.

Traditionally, the couple would tell the family about the marriage once they returned. However, there seems to have been a change in attitudes in parts of the population in recent years. Both Somali media and local resource persons report secrecy and exploitation in connection with such marriages. If the couple does not tell the families about the marriage, they cannot live together, because cohabitation is unthinkable in Somalia. If the woman becomes pregnant, the couple has no choice, and the family must be notified.

There is only anecdotal information about such incidents, but one of Landinfo's contacts said that one of these marriages had had a tragic outcome. A young couple married in secret, the girl became pregnant and the couple then told the families about the marriage. The husband's mother disliked the girl's background and demanded that

¹⁰ Some sources call this *qudbo siro*.

¹¹ A man with religious competence (who can conduct the wedding ceremony) is called *wadaad* in Somali. Before 1991, these persons were appointed and registered by the authorities through the Khadi regional courts.

she have an abortion. The girl had an abortion but died after the operation (female with a diaspora background, meeting in Mogadishu 2013).

There is a lack of statistics, but there may be reason to believe that some of these marriages are entered into between older men and very young girls, and the men eventually leave the girl and evade financial obligations by claiming they were never married. The custom thus opens up the possibility of exploitation of girls and women, who may have difficulty proving they are or have been married (woman with a diaspora background, meeting in Mogadishu 2013).

4.6 "WIDOW INHERITANCE" (*DUMAAL*)

“Widow inheritance” (*dumaal*) means that a widow marries her deceased husband’s brother. The reason for this tradition is to take care of the widow’s and any children’s financial needs and give them security. By keeping the widow in the family circle, the family also keeps the bride price, and thus there is no economic loss even though the husband has died.

The tradition is dying out, according to the author of the book *Culture and Customs of Somalia*, Mohamed Diriye Abdullahi (2001, p.133). Lewis (1994, p. 45) also points out that already in the 1950s, only a few such marriages occurred in Northwest Somalia. Van Notten (2005) emphasises that it is a voluntary arrangement, but that the woman loses the right to financial support from the in-laws if she does not agree to marry the brother of the deceased. Such marriages are likely to be even rarer today than in the 1950s, but probably more frequent in rural areas than in towns. The family’s and woman’s level of education probably also plays a role. There may be a reason to believe that a younger widow will be more attractive than an older woman in terms of pregnancy and birth. Mature women – both divorced and probably widows – are therefore often freer than their younger fellow sisters to, for example, have more say when a suitor indicates interest.

4.7 SORORITY (*HIIGSIISAN*)

Sorority denotes the custom in which a woman takes the place of her childless married sister to give birth to children and thereby fulfil the terms of her sister’s marriage contract. The word sorority is also often used for the marriage of two or more sisters with the same man, either polygynously or successively (SNL 2012). A marriage where a sister takes another sister’s place is called *hiigsiisan* (*xigsiisan*) in Somali. Just as with widow inheritance, there is reason to believe that this custom is unusual, especially in the larger cities.

5. THE MARRIAGE CONTRACT (*NIKAAH*)

Marriage in Islam is a private legal contract between two people, and not a sacrament, as it is, for example, in Catholicism. Consequently, the contractual aspect is more important in Islamic and Somali marriage ceremonies than in ceremonial ones. The basic assumption is that the marriage itself, i.e. the conclusion of the contract – *nikaah* (*nikaax*) – is based on sharia and what follows from this legal tradition, while the wedding party (*aroos*) is a Somali tradition (Smith & Rossbach 2013).

Nikaah is legally binding and is entered into between the parties before the person conducting the ceremony – a “man of religion” (in Somali: *wadaad*) and two witnesses. Only men can be witnesses. The man’s gift to the woman, i.e. the dowry (*meher*), is a key obligation and must be laid down in the nikaah. The woman can also enter in the nikaah that the man may not have more wives and that he guarantees her a divorce if he does.

In Somali tradition, and within the Shafi’i legal school of Sunni Islam, practised in Somalia, the woman must have a male guardian (*wakiil*) who agrees with the marriage contract and represents her at the wedding ceremony (interviews with Somali resource persons in Nairobi in April 2002 and September 2005; Abdullahi 2001).

There are clear rules as to who can be a guardian of the woman:

- The woman’s father
- If the father is dead or living in another part of the country (in practice at least about 90-100 km from the place of marriage), the woman’s brother may be a guardian.¹²
- If neither father nor brother is available, the woman’s uncles on her father’s side may be guardians.¹³
- If neither father, brother nor an uncle can attend, the nearest male relative on the father’s side may be a guardian.
- No relatives on the mother’s side can be a guardian.
- No women can be a guardian.

It is common that the woman herself is not present at the nikaah, but that the guardian represents her, even though she is in the house where the nikaah takes place.

5.1 BRIDE PRICE (*YARAD*)

Prior to the conclusion of the nikaah, the parties’ families negotiate. The central subject is the *yarad* (bride price). The groom’s family pays the *yarad* to the bride’s family. The bride price varies depending on the social and economic situation of the family, and on how attractive the woman is. Among the nomads in the north, the bride price has traditionally been high. Lewis describes a number of examples where the price ranged from three to 40 camels. A bride price of three camels was undoubtedly a sign that these were people from low social strata (Lewis 1994). Lewis’ examples were collected in 1955-57, but things have probably not changed much. The bride price can also be paid in the form of cash or jewellery. Among the people in the south, the price has generally been lower, but even among city folk the bride price is an important issue (Helander 1991).

¹² The few sources that refer to situations where a brother can act as a guardian do not mention whether it must be the oldest brother or whether there is a certain freedom of choice. The person must undoubtedly be an adult, i.e. sexually mature and responsible.

¹³ It is not unambiguously written in Islam or Somali tradition that it must be the father’s oldest brother. Pragmatism is probably crucial in such situations, i.e. who is the easiest to access etc., cf. also footnote 12.

The bride's family also gives gifts to the groom's family. In the countryside, among both nomads and farmers, the bride's family will ensure that the couple gets housing and necessary household equipment. City folk give primarily household equipment.

Before the final bride price is fixed, there have usually been several rounds of negotiations. The price is usually determined by criteria such as social origin, age, beauty and reputation – in both Islamic and Somali contexts. Also, the woman's family must be compensated for the loss of labour brought about by the marriage and for giving her a good moral upbringing.

5.2 DOWRY (MEHER)

In addition to the bride price that the bride's family receives, the woman has the right to claim a dowry (*meher*) from the spouse according to Islamic law. The dowry is determined in the marriage contract and is a precondition for a valid marriage. According to sharia, the woman will be given the dowry in connection with the nikaah, and the dowry will remain her personal property, which she has full control over. In Somalia, it is common for the meher to be paid only upon divorce or the husband's death. Only then is it believed that the woman is entitled to the meher.

During Siad Barre's reign, the maximum rate for the meher was set by law at 2000 Somali shillings (email from the Norwegian Embassy in Nairobi, 2000). The amount was thus equivalent to 1-100 US dollars depending on the rate, which was particularly volatile in 1980-1991 (Little 2003, p. 141). The size of the dowry still varies today. The cash amounts may vary, and sometimes the meher can be given in the form of gold jewellery, a Koran, camels or cattle.

5.3 MARRIAGES BETWEEN RELATIVES

Marriages between siblings are not common among the nomadic clans in the north, where marriages usually occur between members of different subclans. Among the agropastoralists¹⁴ in the south and other fixed-residents groups, on the other hand, marriages with close family members are far more common. Among the northern Somali clans, according to Lewis (1994), there must be six to ten generations separating the parties' common ancestors. Marriage between men and women who are more closely related is nevertheless not considered unsuitable or prohibited.

As elsewhere in the world, relationships between children and parents, between siblings (irrespective of whether they are half-siblings on the father's or mother's side), between a man and his aunt on the father's side, and aunt on the mother's side and brother's daughter and sister's daughter (niece) are considered incestuous. The same applies to relationships between a woman and her uncle on her father's side or mother's side or son-in-law on either side (nephew). Among Somalis, the relationship between siblings is also considered to be too close for marriage, although Lewis states that he knows of some such marriages.

¹⁴ Agropastoralists is the term anthropologists and a number of Somali experts use for the Somali clans rahanweyne (mirifle) and digil, who mainly live in Bay, Bakool, Gedo and Lower Shabeelle. This term means that they are involved both in animal husbandry (cows, flocks and/or camels) and agriculture. The denomination, however, is not used for the peasants living along the Juba and Shabeelle Rivers, who are jareer, i.e. Somalis with Bantu origin.

Among the more settled clans in the south, the picture is different (Helander 2003). The same applies to the so-called Benadir groups. Marriage with a father's brother's daughter/son (cousins) is accepted and common (Helander 2003), just as it is common among Muslims in many other societies. Lewis also states that such marriages are apparently practiced to a very limited extent among the darood warsangeli clan and darood majerteen clan.

5.4 MATRIMONIAL AGE – MARRIAGES WITH MINORS

The Somali family law of 1975 (Emory University School of Law 2015) states that the minimum age for marriage for both men and women is 18 years. Women can be 16 years old, if the guardian agrees. In practice, the age for entering into a first marriage is even lower. Sharia allows women to get married once they have reached puberty, and most people follow Islamic law, not the secular family law. Figures from 2006 showed that almost a quarter of Somali women between the ages of 15 and 19 were married, divorced or widowed (OECD Development Centre 2012).

However, a study in 55 communities in 11 districts from spring 2017 found that only 14 percent of the same age group were married (International Rescue Committee, Care International & Save the Children 2017). The decline from 2006 is relatively significant, but in Landinfo's view, it is not necessarily representative of large parts of the country.

5.5 WEDDING PARTY (AROOS)

The wedding party (*aroos*)¹⁵ is the second part of the marriage, which marks the couple moving in together. It is not a legal ceremony like the nikaah, and it is not a precondition for the marriage to be valid. Traditionally, a certain time may pass between the nikaah and the aroos. However, gradually, the two ceremonies have to some extent merged, so that the party either comes immediately or shortly after the marriage.

The wedding celebration has traditionally lasted for seven days, but this also clearly varies (Abdullahi 2001, pp. 145-147).¹⁶ There may also be differences between weddings in the diaspora and local weddings. Traditionally, women and men have been separated for the wedding party, and that is still the case among conservative religious people. However, there are also weddings where women and men celebrate together.

Dance is an important part of the festivities, and it is seen as an insult to the couple if one does not take part. The most common dance in Somali wedding parties is the *burambur*, where the women form a circle and dance in the middle one by one.¹⁷

¹⁵ Aroos has several meanings. It can mean the tent or cabin set up for the couple, or – in a metaphorical sense – the bridegroom and marriage (Lewis 1994; Helander 1991; Embassy of Norway in Nairobi, email 2000).

¹⁶ See also the blog *Behind Pink Burkhas and Yellow Mullah Beards* (Ismail 2011), which describes this among Somalis in Norway.

¹⁷ Burambur/buranbur also denotes poems and songs written by and about women and their lives.

5.6 POLYGAMY

According to the Koran and Somali tradition, a man can have up to four wives, on condition that all wives are treated equally, both emotionally and materially. Lewis (1994) considers that polygamous marriages are quite common in Somalia and that many men between the ages of 40 and 60 have been married at least twice, either in simultaneous or successive marriages.¹⁸ Generally speaking, the number of wives depends on the age and status of the male – older men more often have more wives than younger men. This is partly because older men usually have better economic circumstances – either in the form of domestic animals or other values – than young men. Each wife and her children tend to establish a household separate from the other wives. In northern Somalia, such a unit is called *bah*, while in the south it is called *min* (Helander 1991).

5.7 PROXY MARRIAGES

If one or both spouses are prevented from being present at the nikaah, sharia allows Muslims to get married by proxy. In Somalia, it is also common for the woman not to be present at the nikaah, even when she is in the same country/town/house. For example, she may be in the room next door and still be represented by her representative or guardian. Even a man may have a representative or guardian, although this may be less common.

Norwegian authorities do not recognise proxy marriage, but according to a Somali theologian, such marriages need not be dissolved by divorce in order for the parties to conclude a new marriage contract (Norwegian Embassy in Nairobi, 2017 email).¹⁹ Thus, the legal framework for divorce becomes relevant only if the proxy marriage is concluded or is expected to have been concluded before the new contract was entered into. Such a situation becomes complicated in sharia law since it contains provisions requiring that two people who are divorced from each other cannot marry one another without the woman having married another man in the meantime.

6. REGISTRATION OF MARRIAGE

Somalia had no functioning central government for a number of years. Although today's federal government has deprived the Islamist movement al-Shabaab of its hegemony in the vast majority of cities and towns, these areas still lack real central and local governance and administration. Only in recent years, the inhabitants of South and Central Somalia have had the opportunity to receive, for example, ID cards and

¹⁸ Lewis (1994, p. 29) gives the example of a group of 75 married men aged 30 to 60. Almost half had only one spouse, more than thirty percent had two spouses, while the others had three and four spouses.

¹⁹ These conditions are governed by classical Sharia law, and a marriage is not legally binding until the parties have "consummated" the marriage by having sexual intercourse. If you conclude a marriage contract, but do not actually consummate the marriage, you are not formally married. Thus, the marriage need not be formally dissolved if the couple separates before they have consummated the marriage. This also applies when somebody enters a proxy marriage that is not consummated. Such people can conclude a new contract with both present, which simply replaces the first contract, which then just lapses. The subject is not specifically addressed in family law in various Muslim countries, because they recognise proxy marriages, and thus do not require provisions on how to "repair" them.

passports. However, there are still no national or local registers with an overview of the inhabitants. The issuance of passports, ID cards and other certificates by different agencies is therefore based on the information provided by the person him or herself – possibly with witnesses or relatives present.

Before 1991, the so-called *wadaads*, religious scholars with competence to wed, were appointed and registered by the authorities through the regional Khadi Courts, administered by the Ministry of Justice and Religious Affairs. Marriages entered into with the local wadaad before 1991 were registered, and the couple could be issued a marriage certificate.

Since 1991, there has been no central appointment and registration scheme of wadaads and marriages have not been registered centrally. Marriage certificates have, however, been issued at the request of various sharia courts in Mogadishu and other cities.

7. MARRIAGES ACROSS RELIGIOUS, CULTURAL OR ETHNIC DIVIDES

Somalia is a religiously homogeneous society. Marriages across religious divides are therefore very rarely a real issue in Somalia and occur almost exclusively in connection with marriage with a foreigner outside Somalia.²⁰ While a Muslim man can marry a Christian or Jewish woman, a Muslim woman cannot marry a non-Muslim man according to Islamic law.

7.1 MARRIAGES WITH PEOPLE FROM MINORITY GROUPS

Marriages with people from the marginalised minority groups in Somalia, i.e. occupational or low-status groups such as the midgan, yibir, yahar and tumaal (called gabooye in Somaliland) or Somali bantu (jareer), is unthinkable to the vast majority of Somalis who do not belong to these groups (representatives of the gabooye, meeting in Hargeisa 18 April 2016).²¹

Traditionally, many Somalis have regarded members of these occupational or low status groups as impure. This perception has been linked to the occupations the groups have engaged in – which Somalis do not want to perform – and myths about unknown or uncertain origin or the consumption of impure food (Landinfo 2016).

There are few concrete examples of what actually happens to those who break the taboo and marry a person from these groups. A woman with a diaspora background (meeting in Mogadishu 2013) gave an example that illustrates the attitudes to marriage to people from marginalised groups. The person knew of a marriage between a male jareer and a woman from a main clan. The woman's mother was opposed to the marriage, even though her daughter was pregnant, and brought the case to the court. She claimed the marriage was void, but the court's ruling was in favour of the couple. The mother then brought the case to another court in another part of the country, and

²⁰ Neither is this common in the diaspora. Even young Somalis born and raised in the West feel that such marriage is problematic (Washuk 2016; Mohamed 2016).

²¹ The so-called Benadir groups, the Hamar, Brava and others, do not have similar low status. Marriage between them and other Somalis is socially accepted.

the ruling there went in the mother's favour. The husband's lawyer was not allowed to attend this court. What consequences this judgement had for the couple is not known.

One of the spokespersons for the low-status groups that Landinfo met in Hargeisa in April 2016 was married to a local Issaq woman. He said that his wife's family had tried to stop the marriage – without success. They have since not been talking to their daughter, and, as the husband said, "She is dead to her family".

The spokesmen also mentioned an event in the Saleh district where a gabooye had married a woman from a local clan. The woman's family not only opposed the relationship, they even attacked the man physically and shot and injured two other gabooye. Most of the perpetrators were arrested, but the husband suffered the same fate even though he had not done anything criminal. The marriage was dissolved, and the husband was imprisoned for a week before he was released (conversation in Hargeisa, April 2016).

There are also families in the main classes that are regarded as impure for various reasons and thus are unsuitable marriage partner for people with different clan affiliations (Landinfo 2013).

8. DIVORCE AND REMARRIAGE

8.1 ARE DIVORCES COMMON?

There are no divorce statistics in Somalia, but the vast majority of those describing Somali family life and marriages believe that divorce (*furriin/furniin*) is relatively common. Divorces neither stigmatise the woman nor are socially unacceptable, as stressed, among others, by Helander (1991) and Lewis (1994). Helander refers to a study that showed that every third marriage in a given area had ended in divorce. He adds that half the women over the age of 50 had been married more than once.

8.2 REVOCABLE AND IRREVOCABLE DIVORCE

Within Sunni law and Somali practice, a man may decide to divorce by saying three times to the spouse: "I divorce you". This is called *talaq* in Arabic. If the *talaq* has been said once or twice, the man can change his decision – he says *rajactu* – and returns to the spouse (revocable). But, if the *talaq* is pronounced three times, the divorce is final (irrevocable).

There are different perceptions about how much time must pass between each time the man states to his wife that he wants a divorce. According to most interpretations of Islamic law, there must be three menstrual cycles (*iddah* period) between the first and last *talaq* for the divorce to be final. However, it is accepted that the man can repeat the expression three times on a single occasion. This is also practiced in Somalia (Embassy in Nairobi, Email 2017).

After three *talaq*, marriage with the same woman is possible only if she in the meantime has been married to and divorced from another man.

A divorce is also final after only one *talaq* when the *iddah* period has expired, and the husband has not pronounced *rajactu*. Should the man wish to resume cohabitation after

this, a new marriage contract, nikaah, must be concluded with two witnesses (Norwegian Embassy in Nairobi, email 2005; 2017). The purpose of the iddah period is to clarify whether the woman is pregnant with her divorced husband. This prevents uncertainty about the paternity of any children. In situations where marriage is not consummated, i.e. the couple has not had intercourse, there will also not be an iddah period.

8.3 HOW DO WOMEN GET DIVORCED?

It is far more difficult for a woman than a man to get divorced. Women, unlike men, cannot use talaq. Grounds for divorce which a woman can cite under Islamic law include that the man does not support her, that he is seriously mentally ill or that he is impotent. She must apply at a local sharia court, but may only get divorced under certain conditions. The alternative is to persuade the husband to give her a divorce, or to act in such a way that the man chooses to divorce her.

The fact that so many people get married very young – often in the 12 to 15 age group – is one of the reasons that many marriages end in divorce, according to a woman with a diaspora background (conversation in Mogadishu 2013).

8.4 REMARRIAGES

Women most often return to their parents after divorce (Abdullahi 2001). Women are required to wait to marry again until the iddah period is complete. If a woman is pregnant at the time of divorce, the iddah period lasts until the birth.

It is common for both men and women to remarry. For the woman's part, it is important to avoid becoming a financial burden for the parents or siblings. Divorced women are often more free to choose a new partner than on their first marriage, not least because the bride price of a divorced woman (or widow) will generally be significantly lower than for a first-time bride (Lewis 1994, pp. 64-65).

9. PARENTAL RESPONSIBILITY AND CARE FOR CHILDREN IN CASE OF DIVORCE OR DEATH

According to Muslim jurisprudence and Somali tradition, the father is the guardian (wali) and has parental rights to the children. After a divorce, the father retains parental rights to the children, but the mother is granted the daily care of the children for seven years. Boys older than seven years usually move to the father or his family. Daughters often stay with the mother until puberty.

If the father dies, his family will have parental responsibility, i.e. the grandfather or the father's oldest brother. If both parents die, the families on the father's and mother's side will decide who will take care of the children. Usually the relative with the most resources is chosen (Migrationsverket 2009).

If the child's parents have never been married, the grandmother receives parental responsibility if the mother dies.

10. SOMALILAND (NORTHWEST SOMALIA)

The area of Somaliland (Northwest Somalia) declared itself independent in May 1991, but no country has recognised this state formation. Somaliland has also established its own justice system, legislation, police and more. However, there is no centralised overview of the inhabitants of the area. Cases relating to family law are primarily handled by religious courts subject to the Ministry of Religious Affairs. Sharia is the primary source of law used (Abdi 2010).

Six regional religious courts (Khadi courts) are responsible for making judicial decisions under this legislation. Decisions made by these courts may be appealed to the Ministry of Religious Affairs in Hargeisa. The six regional courts are located in the towns of Borama (in the Awdal region), Hargeisa (in Waqoyi Galbeed), Berbera (in Sahil), Burao (in Togdheer), Erigavo (in Sanaag) and Las Anod (in Sool). In addition to making decisions in family law disputes, as well as performing or confirming weddings, the Khadi courts also have notarial authority. This means that it is possible to have written statements drawn up with notarial confirmation by the court.

10.1 REGISTRATIONS IN SOMALILAND

Marriages and divorces are performed by the regional courts, which also issue marriage certificates. Marriages must also be registered with the Ministry of Registration in Hargeisa. This body should also be able to verify the authenticity of the documentation submitted (Director General Abdifateh Said Mohamed, Head of Civil Registration Mohamed Jama Colow, Hargeisa, meeting in April 2016). However, it is primarily people living in the towns concerned that are married by the regional courts.

People living in rural areas and in smaller towns usually marry (and possibly divorce) where they live. In these cases, the marriage is conducted by a person with competence to lead the marriage ceremony based on good knowledge of the Koran and local recognition. Such a person will often be entitled to bear the title *sheik* or *aw*. The regional religious courts will have an overview of which people in the respective regions can conduct a marriage ceremony and must subsequently confirm that the marriage has been performed by a recognised person. There is no system of civil marriages.

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