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# Guidance Note 10

COMMON ANALYSIS
Last update: June 2022
**Minor updates: August 2023*

## COI summary

### Discrimination against women and girls

Somalia has been described as one of the most gender unequal countries in the world.

Women face under-representation and barriers to employment. Women from poor urban households may be forced to take on jobs or to engage in entrepreneurial activities that bear a high risk of exploitation and even violence. The limits of participation of women in better paid socio-economic activities and, in case of divorce or death of male partners, makes women more prone to poverty and precarity [KSEI 2021, 1.4.2.2., p. 51]. Under-representation of women also exists in the judiciary in positions such as lawyers, judges and prosecutors. [Actors, 7.7.4., p. 114]. Women's participation in the political system is also limited by discrimination and hostility in practice. Furthermore, discrimination limited girls' access to schooling, due to the conflict situation and practices such as early marriage and FGM/C, with girls in farming, rural, remote, displaced, and nomadic communities being particularly affected. [KSEI 2021, 1.4.2.2., pp. 51-52]

Although certain laws grant women some rights, in practice women are often disadvantaged because of the application of the customary law or of Sharia law. Furthermore, women can only have access to traditional justice through a male tutelar personality, husband, brother, father or uncle. Stigma is associated to women directly seeking justice and presenting their case to a male dominated justice system and in the context of a patriarchal society, since they are not considered by the society as responsible. [Actors, 2.3.2., p. 31]

Al-Shabaab further limits women's rights and movement in public in a severe manner. Women are forced to adhere to a specific dress code and be accompanied by a male guardian. The group also enforces a strict gender division in public transportation and in public interactions [Actors, 4.4., p. 66].

### Sexual and gender-based violence

Girls and women face numerous challenges such as child marriage, FGM/C, domestic violence, sexual and gender-based violence (SGBV) and human trafficking [Targeting, 2.1., p. 29].

Sexual violence against women and girls is described as pervasive, especially in South-Central Somalia and Puntland, with the problem exacerbated by the Covid-19 pandemic. The risk of SGBV is increased in Al-Shabaab controlled areas [Targeting, 2.2., pp. 31-33]. Although rape and sexual violence against women and girls continued to be underreported due to a climate of impunity as well as victim's fear and stigma [Security 2023, 1.4.2., p. 48], the risen level of violence in the country has reportedly caused an upsurge in sexual violence incidents. For the period 23 August 2022 to February 2023, eight incidents of conflict-related violence were reported, affecting six women as well as a 7-year-old and a 14-year-old girl [COI Update 2023, 1.3.6., p. 19]. Stigmatization is common and rape victims face harsh treatment from the community and their families. Victims of SGBV are often forced to marry their perpetrators as part of the remedial practices. Abortion after rape is no option. A lack of trust in the justice system, gender-biased officers, lack of knowledge of one's own rights, limited financial means, fear for humiliation and security concerns further act as barriers to prosecution. [Targeting, 2.2., pp. 34-35].

Sexual violence continued to be employed by Al-Shabaab as a strategy of social control in the communities under their influence. Incidents of rape and gang rape have been also committed by state agents, clan militias and unidentified armed men [Targeting, 2.2., p. 32]. In several cases, survivors and providers of services for gender-based violence survivors were directly threatened by authorities when such abuses were perpetrated by men in uniform [Targeting, 2.2., p. 35]. Women from displaced communities and/or from weak clans were more likely to experience SGBV. Girls and women with disabilities also faced a heightened risk of SGBV. [ Targeting, 2.2., p. 31]

Domestic violence is also described as rampant and generally tolerated in Somalia [Targeting, 2.2., p. 32]. Furthermore, Somali women continue to experience widespread sexual harassment at workplaces [Targeting, 2.2., p. 31].

Rape is punishable with 5 to 15 years imprisonment under the Somali Penal Code. There are no federal laws against spousal violence, including rape. In 2018, a Sexual Offences Bill was initiated, aiming to provide a legal framework to address sexual and gender-based violence in Somalia. However, the federal government, by June 2021, had not yet passed the bill. In 2020, the 'Sexual intercourse related crimes' bill was developed which has been characterised as a major setback for victims of SGBV in Somalia, however it has not been approved yet. In 2016, Puntland authorities launched the first-ever Sexual Offences Law criminalizing all sexual offences in the region. However, the bill is not applied in practice. Somaliland passed a sexual offences bill in 2018 but it has not been implemented. [Targeting, 2.2., p. 33]

SGBV service provision remains low as compared to the need and geographical landscape in Somalia. Covid-19 contributed to the closure of some of the already limited services, while open shelters were hesitant to take new admissions for SGBV victims due to fear of the virus. SGBV survivors from remote locations experienced further challenges with regard to access to quality services. [Targeting, 2.2., p. 35]

## Conclusions and guidance

### Do the acts qualify as persecution under Article 9 QD?

Some acts reported to be committed against women and girls under this profile are of such severe nature that they amount to persecution (e.g. rape, certain forms of physical violence including of domestic violence, sexual violence). When the acts in question are of less severe nature (e.g. obstacles to employment, education and access to justice), the individual assessment of whether they could amount to persecution should take into account the severity and/or repetitiveness of the acts or whether they occur as an accumulation of various measures.

### What is the level of risk of persecution (well-founded fear)?

The individual assessment of whether there is a reasonable degree of likelihood for the applicant to face persecution in the whole of Somalia, including **South-Central Somalia, Puntland and Somaliland**, should take into account risk-impacting circumstances, such as: age, area of origin and actor in control of the area, clan affiliation, being from a displaced or nomadic community, having a disability, level of assistance by a support/clan network, etc.

In the case of women without support network, see sub-profile 3.13.7. Single women and female heads of households.

### Are the reasons for persecution falling within Article 10 QD (nexus)?

Where well-founded fear of persecution is substantiated, available information indicates that persecution of this profile may be for different reasons under Article 10 QD, depending on the specific circumstances of the case. For example, women and girls who have been sexually abused may be subjected to persecution for reasons of membership of particular social group, based on their common background which cannot be changed (past experience of sexual abuse) and distinct identity in Somalia (in relation to stigmatisation by society).

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See other topics concerning women and girls:

- *3.13.1. Violence against women and girls: overview*
- 3.13.2. Female genital mutilation or cutting (FGM/C)
- 3.13.3. Women and girls fearing forced recruitment by Al-Shabaab
- 3.13.4. Women and girls who have left Al-Shabaab
- 3.13.5. Child marriage and forced marriage
- 3.13.6. Women and girls in clan conflicts
- 3.13.7. Single women and female heads of households

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