

Schnellrecherche der SFH-Länderanalyse vom 13. Februar 2018 zu Eritrea: Sexualisierte Gewalt gegen Frauen

Fragen an die SFH-Länderanalyse:

- Wie weit ist sexualisierte Gewalt in Eritrea verbreitet?
- Sind Schutzmassnahmen für Opfer sexualisierter Gewalt vorhanden?
- Was sind die Folgen sexualisierter Gewalt in Eritrea?

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

In dieser Schnellrecherche wird das Thema der weiblichen Genitalverstümmelung (FGM) nicht behandelt. Siehe dazu: Schweizerische Flüchtlingshilfe SFH, Weibliche Genitalverstümmelung (FGM), 11. Januar 2018: www.fluechtlingshilfe.ch/assets/herkunftslaender/afrika/eritrea/180111-eri-fgm.pdf.

1 Rechtlicher Rahmen

Sexualisierte Gewalt als systematischer Angriff und Verbrechen gegen die Menschlichkeit. Auf Basis der von ihr gesammelten Erkenntnisse stuft die *UN-Untersuchungskommission für Menschenrechte in Eritrea* (UNHRC, Juni 2016) gewisse Vergewaltigungen als Verbrechen gegen die Menschlichkeit ein. Dabei handelt es sich um Vergewaltigungen in militärischen Trainingszentren und in Haft, sowie um solche, die gegen Frauen und Mädchen der *Afar-Gemeinschaft* gerichtet sind. Diese würden als Teil eines weit verbreiteten oder systematischen Angriffs ausgeübt, welcher direkt gegen die eritreische Zivilbevölkerung gerichtet sei. Sexuelle Übergriffe gegen Frauen der vorwiegend muslimischen *Afar-Minderheit* würden als bewusste Strategie des Militärs angewendet, um diese Menschen, welche traditionell nomadisch leben, von ihrem Land zu vertreiben (UNHRC, 2015).

Mangel an Rechtsstaatlichkeit und an einer unabhängigen Justiz. Die Rechtssysteme zum Schutz, Prävention, Bestrafung und Beseitigung von Gewalt gegen Frauen sind gemäss der *UN-Untersuchungskommission für Menschenrechte in Eritrea* (UNHRC 2015) beschränkt und unwirksam. Frauen seien in unverhältnismässigem Ausmass vom Mangel an Rechtsstaatlichkeit und von der fehlenden unabhängigen Justiz betroffen. Gemäss *UN Women* gab es zwischen 2009 und 2012 302 Fälle von Beschwerden oder Anklagen, die aufgrund sexueller Übergriffe bei Gerichten eingereicht, beziehungsweise erhoben wurden (*UN Women*, 2016 (2)). Diese Fälle betrafen Vergewaltigungen, sexuelle Nötigung («*sexual outrage*»), Verführung, Ehebruch und Bigamie. Es gebe keine Angaben dazu, ob es dabei zu einer Verurteilung oder Bestrafung gekommen sei. Laut USDOS (März 2017) gibt es keine Berichte zu strafrechtlichen Anklagen aufgrund von sexueller Belästigung.

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2015 wurde eine neue Gesetzgebung verabschiedet aber nicht umgesetzt. Das Strafgesetzbuch von 1957 ist weiterhin in Kraft. Im Mai 2015 wurden ein neues Strafgesetzbuch, ein Zivilgesetzbuch sowie eine Straf- und Zivilprozessordnung verabschiedet (*28 Too Many*, November 2017). Laut Angaben einer Kontaktperson mit Expertenwissen zu Eritrea ist die neue Gesetzgebung jedoch nicht in Kraft und niemand wisse, wann sie zur Anwendung kommen wird (E-Mail-Auskunft vom 2. Februar 2018 an die SFH). Nach wie vor werde das Strafgesetzbuch von 1957 angewendet. Andere Quellen bestätigen diese Angabe (*28 Too Many*, November 2017; *Library of Congress*, März 2016).

Definition und rechtliche Bestrafung einer Vergewaltigung. Artikel 589 des *eritreischen Strafgesetzbuches* von 1957 definiert Vergewaltigung als ein ausschliesslich gegen eine Frau gerichteter Akt. Eine Vergewaltigung kann eine Gefängnisstrafe von bis zu zehn Jahren nach sich ziehen. Gruppenvergewaltigung, Vergewaltigung von einer Person unter 15 Jahren oder von einer behinderten Person wird mit bis zu 15 Jahren Freiheitsentzug bestraft. Sexualisierte Gewalt beziehungsweise Nötigung («*sexual outrages*») kann eine Haftstrafe von sechs Monaten bis zu acht Jahren zur Folge haben (*Eritreisches Strafgesetzbuch* 1957; siehe auch USDOS, März 2017).

Vergewaltigung in der Ehe ist nicht als Straftat festgelegt. Im *eritreischen Strafgesetzbuch* von 1957 findet Vergewaltigung in der Ehe keine Erwähnung und stellt laut dem *Niederländischen Aussenministerium* (Februar 2017) somit keine Straftat dar (siehe auch USDOS, 2017). Auch im neuen Strafgesetzbuch von 2015 wird Vergewaltigung in der Ehe nicht als Verbrechen definiert. Gemäss Artikel 307 Abs. 2 des *eritreischen Strafgesetzbuches* aus dem Jahr 2015 ist sie nur strafbar, wenn das Ehepaar nicht im gleichen Haushalt zusammenlebt.

Abtreiben ist in Eritrea illegal und wird mit bis zu fünf Jahren Gefängnisstrafe bestraft. Für eine Abtreibung ist im *eritreischen Strafgesetzbuch* von 1957 eine Gefängnisstrafe von bis zu fünf Jahren vorgesehen. Bei Abtreibungen aufgrund eines starken psychischen oder physischen Leidens, nach einer Vergewaltigung oder Inzest oder aufgrund von extremer Armut kann die Strafe gemildert werden. Eine Abtreibung wird nur geduldet, wenn die Frau durch den Eingriff von einer schwerwiegenden und andauernden Bedrohung auf Leib und Leben gerettet werden kann.

2 Verbreitung sexualisierter Gewalt gegen Frauen in Eritrea

Mangel an Statistiken zu Gewalt gegen Frauen in Eritrea. Gemäss der *UN-Untersuchungskommission für Menschenrechte in Eritrea* (UNHRC, Juni 2015) ist es schwierig, das Ausmass sexualisierter Gewalt gegen Frauen zu dokumentieren. Dies sei auf den spezifischen Kontext Eritreas und die Scham und Stigmatisierung der Betroffenen zurückzuführen (siehe dazu Abschnitt 4). Laut dem *Übereinkommen zur Beseitigung jeder Form von Diskriminierung der Frau* (CEDAW, März 2015) gibt es zu wenig statistische Daten über Gewalt gegen Frauen. Gemäss der Datenbank zu Gewalt gegen Frauen von *UN Women* sind offizielle nationale Statistiken zur Verbreitung häuslicher und nicht-häuslicher Gewalt nicht verfügbar (*UN Women*, 2016 (1); siehe auch *OECD Data*, ohne Datum, Zugriff am 16. Januar 2018).

2.1 Sexualisierte Gewalt im Militär- und Nationaldienst und in Haft

Viele sexualisierte Übergriffe seitens der Sicherheitskräfte im Militär- und Nationaldienst, vor allem in Sawa. Geschlechterspezifische Diskriminierung und Gewalt gegen Frauen und Mädchen im Militär- und Nationaldienst sind in Eritrea weit verbreitet (USDOS, März 2017; AI, Februar 2017, UNHRC, Juni 2016, CEDAW, März 2015). Obwohl sexualisierte Gewalt im Rahmen des Nationaldienstes unabhängig von der jeweiligen Ortschaft oder Aufgabe stattfindet, sei sie im Militärlager in Sawa besonders ausgeprägt (*Gaim Kibreab*, April 2017). Viele Frauen und Mädchen werden in den Militärlagern sexuell ausgebeutet und müssen untergeordnete Arbeiten wie Putzen und Waschen verrichten sowie ihren Vorgesetzten Kaffee kochen (UNHRC, 2015; *Kibreab*, 2017). Wenn sie sich weigern, werden sie bestraft: Sie müssen gefährliche Arbeiten verrichten, werden an exponierte Orte geschickt, extremer Hitze ausgesetzt, schikaniert oder körperlich bestraft (*Kibreab*, 2017; UNHRC, 2015; CEDAW, 2015). Nicht nur Ausbilder, sondern auch «einfache» Soldaten im National- und Militärdienst zwingen Frauen zum Geschlechtsverkehr (UNHRC, 2016). Ein Militäroffizier berichtete gegenüber der *UN-Untersuchungskommission für Menschenrechte in Eritrea*, dass sexualisierte Gewalt und Vergewaltigungen im National- und Militärdienst «üblich» seien (UNHRC, Juni 2016). Einem anderen ehemaligen Ausbilder zufolge ist sexuelle Ausbeutung in Sawa «normal» (UNHRC, 2015).

Sexuelle Übergriffe von Armeeingehörigen kommen auch ausserhalb des Nationaldienstes vor. Auch ausserhalb des Nationaldienstes sind Frauen und Mädchen sexuellen Übergriffen von Armeeingehörigen ausgesetzt. So berichtet die *UN-Untersuchungskommission für Menschenrechte in Eritrea* (UNHRC, Juni 2016) über Frauen und Mädchen, die nach einem gescheiterten Fluchtversuch von Soldaten aufgegriffen und gezwungen worden sind, ihre Kleider auszuziehen. Die Soldaten hätten die Frauen abgetastet und selbst fünf- und neun-jährige Mädchen sexuell belästigt.

Verschiedene Quellen deuten auf sexuelle Sklaverei und Folter hin. Laut USDOS (2017) und UNHRC (2015) sind die sexuellen Übergriffe seitens des Armeepersonals mit Folter vergleichbar, die erzwungene Hausarbeit in Ausbildungslagern entspreche sexueller Sklaverei (USDOS, März 2017; UNHRC, 2015). Auch *Kibreab* (2017) spricht von weitverbreiteter Folter und von sexuellem Missbrauch. AI (Februar 2017) weist auf sexuelle Versklavung und Folter von Frauen und Mädchen im militärischen Ausbildungslager in Sawa hin.

In Haft ist sexualisierte Gewalt weit verbreitet, auch Männer sind betroffen. Auch in Haft komme sexualisierte Gewalt gegen Frauen und auch gegen Männer häufig vor (CEDAW, 2015; UNHRC, 2015). Die *UN-Untersuchungskommission für Menschenrechte in Eritrea* (UNHRC, 2015) berichtet von Gruppenvergewaltigungen und wiederholten Vergewaltigungen. Männliche Inhaftierte würden von anderen Männern vergewaltigt oder zu Geschlechtsverkehr mit anderen Häftlingen gezwungen. CEDAW (2015) kritisiert, dass es kein unabhängiges Überwachungsorgan gibt, welches in Eritrea Haftanstalten besucht.

2.2 Häusliche Gewalt und sexualisierte Gewalt seitens der Zivilbevölkerung

Weite Verbreitung häuslicher Gewalt. Dem *Niederländischen Ausserministerium* zufolge (Februar 2017) ist häusliche Gewalt in Eritrea, vor allem in ländlichen Gebieten, weit verbreitet. In einem Bericht an den Ausschuss für die Rechte des Kindes verweist die *eritreische Regierung* auf eine 2001 durchgeführte Studie, gemäss welcher 40 Prozent der Frauen von häuslicher Gewalt betroffen waren (*Eritreische Regierung*, 2003). Laut Angaben einer anderen Studie aus dem Jahr 2002 waren 90 Prozent der eritreischen Frauen häuslicher Gewalt ausgesetzt. Gemäss der *UN-Untersuchungskommission für Menschenrechte in Eritrea* (UNHRC, 2015) ist die Verbreitung häuslicher Gewalt auf das traditionelle Verständnis über die Rolle der Frau in der Gesellschaft, die Militarisierung der Bevölkerung, den daraus folgenden Druck auf die Familie und den Überfluss an Waffen innerhalb der eritreischen Gesellschaft zurückzuführen.

Hohe Akzeptanz häuslicher Gewalt. Laut Angaben von *OECD Data* (ohne Datum, Zugriff am 16. Januar 2018) sagten 71 Prozent der eritreischen Frauen im Jahr 2014, dass Gewalt des Ehemannes oder Partners gegen seine Frau beziehungsweise Partnerin unter bestimmten Umständen gerechtfertigt sei.

Sexuelle Übergriffe bei der illegalen Ausreise. Bei der illegalen Ausreise seien Frauen im starken Mass sexualisierter Gewalt ausgesetzt, da sie Menschen ausgeliefert seien, die von ihrer instabilen Lage in einer solchen Situation profitieren würden (UNHRC, 2015).

2.3 Minderjährigenheiraten, arrangierte Heiraten und Zwangsheiraten¹

Trotz des gesetzlichen Heiratsalters von 18 Jahren gibt es viele Minderjährigenheiraten. Das gesetzliche Heiratsalter in Eritrea liegt sowohl für Männer als auch für Frauen bei 18 Jahren (USDOS, März 2017; UNHRC, 2015). Trotzdem wird Heirat von Minderjährigen, in vielen ethnischen Gruppen Eritreas eine traditionelle Praxis, in manchen Gruppen nach wie vor praktiziert (UNHRC, 2015). Gemäss der eritreischen *Population and Health Survey* vom Jahr 2010 wurden 41 Prozent der befragten Frauen im Alter zwischen 20 und 24 Jahren als Minderjährige verheiratet. 13 Prozent waren bei der Eheschliessung jünger als 15 Jahre (USDOS, März 2017). Insbesondere Mädchen in ländlichen Regionen seien dem Risiko einer Minderjährigenheirat ausgesetzt. Auch CEDAW (2015) hebt die weite Verbreitung von Minderjährigenheiraten in Eritrea in seinem Bericht hervor.

Angst vor sexueller Misshandlung führt zu frühzeitigen Abbrüchen der Schule und des Nationaldienstes, Zwangsheiraten und Schwangerschaften. Um zu verhindern, dass Mädchen auf dem Schulweg oder in der Schule sexuell angegriffen werden, bevorzugen es manche Familien, ihre Töchter zu Hause behalten bis diese

¹ Die *Fachstelle Zwangsheirat* unterscheidet zwischen Zwangsheiraten und Zwangsehen. Während eine Zwangsehe als «ein Bleibezwang in einer bereits eingegangenen Ehe» definiert wird, wird eine Zwangsheirat als die «mensenrechtsverletzende Fremdbestimmung» bezeichnet und «liegt dann vor, wenn mindestens eine der betroffenen Personen (Braut oder Bräutigam) sich zur Heirat gezwungen fühlt». Die Begriffe «arrangierte Heiraten» und «Minderjährigenheiraten» entsprechen den Begrifflichkeiten der *Fachstelle Zwangsheirat* (ohne Datum, Zugriff am 29. Januar 2018).

verheiratet sind (UNHRC, 2015; CEDAW, 2015). Die Auffassung, dass ein sexueller Übergriff vor der Ehe schlimmer sei als nachher, führe zu Eheschliessungen von minderjährigen jungen Mädchen (UNHRC, 2015). Dies versetzt Mädchen und junge Frauen aufgrund ihres Alters wiederum in eine Situation von Gewalt und Ausbeutung.

Im Nationaldienst gehen viele Rekrutinnen eine Ehe mit anderen Rekruten oder älteren Männern ein, in der Hoffnung, dass bei verheirateten Frauen die Gefahr sexualisierter Gewalt geringer ist und sie durch eine Eheschliessung vorübergehend vom Dienst freigestellt werden (*Kibreab*, April 2017; UNHRC, 2015). Zudem werden Mädchen von ihren Familienmitgliedern verheiratet, damit sie den Nationaldienst umgehen können und sich zu Hause um die Familie und den Haushalt kümmern können (UNHRC, 2015). Viele Frauen entscheiden sich bewusst für eine Schwangerschaft, um auf diese Art dem Nationaldienst zu entkommen (*Kibreab*, 2017; CEDAW, 2015).

Massnahmen der Regierung, Minderjährigenheiraten zu bekämpfen, verletzen das Recht auf Familiengründung. Gemäss Angaben, die der *UN-Untersuchungskommission* vorliegen ergreift die eritreische Regierung Massnahmen, um Eheschliessungen von Frauen, die den Nationaldienst noch nicht abgeschlossen haben, zu begrenzen (UNHRC, 2015). So verbiete die Regierung Kirchen und Moscheen, Trauungen von Mädchen im Wehrpflichtalter durchzuführen, sofern keine offizielle Erlaubnis vorliegt. Diese Erlaubnis werde nur nach dem Abschluss des Nationaldienstes ausgestellt. Gemäss der *UN-Untersuchungskommission* verstösst diese Praxis gegen das Recht, eine Familie zu gründen.

Polygamie als frauendiskriminierende Praxis. CEDAW (2015) unterstreicht seine Besorgnis über die Tatsache, dass Frauen gemäss dem islamischen Familienrecht in Bezug auf Heirat, Scheidung und Erbschaft diskriminiert werden. In manchen muslimischen Gemeinschaften werde Polygamie nach wie vor praktiziert und führe zu einer unsicheren Stellung der Frau. Als Beispiel verweist CEDAW auf Erbschaftsangelegenheiten, bei welchen der Ehemann nur eine Frau als seine Erbin angeben könnte und die anderen benachteiligt werden.

3 Fehlender Schutz, hohe Straflosigkeit

Fehlende Schutzmassnahmen und Anlaufstellen für Betroffene, Quelle weist auf Leugnung des Ausmasses der Gewalt gegen Frauen seitens der Regierung hin. Die *UN-Untersuchungskommission für Menschenrechte in Eritrea* (UNHRC 2015) stellt seitens des eritreischen Staates eine «vollständige Leugnung» des Ausmasses der Gewalt gegen Frauen fest. Es mangle an wirksamen Systemen und Dienstleistungen für Betroffene. Gemäss CEDAW (März 2015) sind spezifische medizinische, forensische oder sonstige auf Beweisen beruhende Verfahren, um Fällen von Gewalt gegen Frauen nachzugehen, inexistent. Laut CEDAW (März 2015) sind keine Angaben über die Existenz von Rehabilitationsdienstleistungen, Schadenersatzzahlungen oder Entschädigungen an Opfern sexualisierter Gewalt sowie über die Begleitung und den Schutz von Zeug_innen vorhanden. Gemäss UNHRC (Juni 2015) bietet die regierungsnahe Organisation *National Union of Eritrean Women* (NUEW) gewisse Dienste und Information für Opfer sexualisierter einschliesslich

häuslicher Gewalt an. Diese sind allerdings gemäss Aussagen von Betroffenen an das UNHRC (2015) «praktisch inexistent».

Anzeige gegen Staatsangestellte und/oder Mitglieder der Sicherheitskräfte ist praktisch unmöglich. Quelle berichtet von Folter aufgrund einer Strafanzeige.

Laut *UN-Untersuchungskommission für Menschenrechte in Eritrea* (UNHRC 2015) ist es für von sexualisierter Gewalt betroffene Frauen «extrem schwierig» eine Beschwerde einzureichen. Die Wahrscheinlichkeit, dass diese angemessen ermittelt oder dass der Täter strafrechtlich verfolgt werde, sei minimal. Die *UN-Untersuchungskommission* berichtet von Bemühungen Anzeige zu erstatten, die von der Armee und von der Polizei zurückgewiesen wurden (UNHRC, Juni 2015). Die Bereitschaft, Gewalt gegen Frauen anzuerkennen, sei besonders mangelhaft, wenn die Straftat von Angehörigen staatlicher Institutionen ausgehe, beispielsweise wenn der Täter den bewaffneten Streitkräften angehöre. Laut Angaben eines ehemaligen Militäroffiziers gegenüber der *UN-Untersuchungskommission für Menschenrechte in Eritrea* (UNHRC, 2016) sind alle Befehlshaber miteinander vernetzt. Wird Anklage gegen einen dieser Exponenten erhoben, passiere nichts oder die Frau werde bestraft (UNHRC 2015). Wegen der Scham der Frauen und ihrer Selbstzensur können Militärangehörige sie weiterhin straflos belästigen.

Die *UN-Untersuchungskommission* (UNHRC, 2015) berichtet von einer Frau, die von einer versuchten Vergewaltigung seitens eines Militäroffiziers betroffen war. Als sie den Übergriff melden wollte, traf sie den Täter auf der Polizeistation. Ihr wurde gesagt, dass sie nach Hause gehen und mit niemandem über den Vorfall sprechen solle. Die *UN-Untersuchungskommission* weist im gleichen Bericht auf den Fall einer jungen Frau hin, welche von einem Militäroffizier vergewaltigt wurde. Nachdem ihr Vater den Vorfall beim Führer des Militärlagers gemeldet hatte, sei er einen Monat lang inhaftiert und gefoltert worden.

Keine Bestimmungen oder Richtlinien, welche die Befugnisse der Militärbefehlshaber einschränken.

Gemäss *Gaim Kibreab* (April 2017) wird das Verhalten der Befehlshaber sowie die Behandlung von Rekruten meist nicht kontrolliert. *Kibreab* zufolge gibt es keine Vorschriften oder Richtlinien, welche unter anderem die Befugnisse von Vorgesetzten definieren, sexuelles Fehlverhalten gegenüber Rekrut_innen verbieten oder Rechtsmittelverfahren bei sexuellem oder andersartigem Missbrauch ermöglichen. Der Mangel an Kontrolle und Vorschriften ermöglicht Militärbefehlshabern uneingeschränkte Macht und Straffreiheit. Eine Kontaktperson bezeichnet die Macht der Vorgesetzten gegenüber *Kibreab* (2017) als «absolut».

Hohe Straflosigkeit fördert weitere Gewalt gegen Frauen.

Die Mängel im Justizsystem führen laut UNHRC (2015) zu einer Straflosigkeit bei Gewalt gegen Frauen, welche wiederum weitere Gewaltakten zur Folge hat. Das Scheitern des Staates Täter zur Verantwortung zu ziehen, intensiviere die Unterordnung und Ohnmacht der Frauen und sende die Botschaft aus, dass männliche Gewalt gegen Frauen akzeptabel und unumgänglich sei. So berichtet die *UN-Untersuchungskommission* (UNHRC, 2015) von einer Frau, die einen Vorfall häuslicher Gewalt bei der Polizei melden wollte. Ihr wurde gesagt, dass sie die Übergriffe tolerieren müsse, weil eine Ehe so funktioniere.

Fehlender staatlicher Schutz führt zur Ausreise. Verschiedene Frauen gaben gegenüber der *UN-Untersuchungskommission* an, aufgrund des fehlenden staatlichen Schutzes ausgereist zu sein, weil sie sich in Eritrea nicht mehr sicher fühlten (UNHRC, Juni 2015).

Häusliche Gewalt wird oft privat geschlichtet. Angaben des *Niederländischen Aussenministeriums* zufolge wird häusliche Gewalt kaum angezeigt. Täter häuslicher Gewalt werden selten vor Gericht gestellt (*Niederländisches Aussenministerium*, Februar 2017). Gemäss CEDAW (März 2015) werden Fälle häuslicher Gewalt oft von traditionellen und religiösen Führern geschlichtet. Mediation werde einer strafrechtlichen Verfolgung vorgezogen.

4 Stigmatisierung von Opfern sexualisierter Gewalt und weitere Folgen

Sexualisierte Gewalt ist in Eritrea ein Tabuthema. Verschiedene Quellen berichten übereinstimmend, dass sexualisierte Gewalt in der eritreischen Gesellschaft ein Tabuthema ist (*Human Rights Concern Eritrea*, März 2017; UNHRC, 2016, UNHRC, 2015; *Kibreab*, April 2017). Viele Frauen haben gegenüber der *UN-Untersuchungskommission für Menschenrechte in Eritrea* (UNHRC, 2015) angegeben, dass sie aufgrund der kulturellen Gewichtung von Jungfräulichkeit, Keuschheit und Monogamie Angst hatten, über sexualisierte Gewalt zu sprechen. Weil kaum über das Thema gesprochen wird, sagten ehemalige Rekruten gegenüber *Gaim Kibreab* aus, sie hätten anfänglich angenommen, dass die sexuellen Begegnungen zwischen Rekrutinnen und Befehlshabern einvernehmlich gewesen seien (*Kibreab*, 2017).

Viele Vergewaltigungsoffer können nicht heiraten oder werden geschieden. Weil weibliche Jungfräulichkeit und Keuschheit in Eritrea hoch angesehen werden, sei es für viele Vergewaltigungsoffer nicht möglich zu heiraten. Diese Tatsache erachten Betroffene oft als die schwerwiegendste Folge einer Vergewaltigung. Wenn die Frau zum Zeitpunkt der Vergewaltigung bereits verheiratet ist, könne eine Scheidung gegen sie eingeleitet werden oder ihr werden die Kinder weggenommen (UNHRC, Juni 2015).

Scham, Stigma und Angst, dass ihnen nicht geglaubt wird, halten Frauen davon ab, eine Anzeige zu erstatten. Laut dem *Niederländischen Aussenministerium* (Februar 2017) und USDOS (März 2017) werden Frauen aufgrund kultureller Normen und Scham davon abgehalten, häusliche oder nicht-häusliche sexualisierte Gewalt zur Anzeige zu bringen. Unterbreitet eine Frau den Vorfall vor Gericht, würde die ganze Nachbarschaft vom Geschehen erfahren. In der Folge würde dies Schande über die Familie bringen und niemand würde das vergewaltigte Mädchen heiraten (UNHRC, Juni 2015). Auch viele Eltern von Betroffenen vermeiden aus Angst vor Stigmatisierung und Ausgrenzung des Mädchens eine Anzeige (*Human Rights Concern Eritrea*, März 2017). Zudem hält gemäss *Gaim Kibreab* (April 2017) die Angst, dass ihnen nicht geglaubt wird, viele Frauen davon ab, über den Vorfall zu sprechen.

Opfer sexualisierter Gewalt leiden unter Gewalt und/oder Verstoss von Seite der Familie und der Gemeinschaft, einige fürchten den Tod. Gemäss UNHRC (Juni 2016) wird eine vergewaltigte Frau in bestimmten ethnischen und religiösen Gruppen von ihrer Gemeinschaft verstossen. Laut UNHRC (2015) haben einige Frauen Angst vor Gewalt seitens ihrer Familie, falls der Vorfall sexualisierter Gewalt den Familienmitgliedern bekannt wird. Wenn Familienangehörige davon ausgehen, dass der Vorfall die Ehre der Familie befleckt hat, könne das Opfer unter zusätzlicher Gewalt leiden, welche in gewissen Fällen zum Tod führen kann. Der *UN-Untersuchungskommission für Menschenrechte in Eritrea* zufolge (UNHRC, 2015) gibt es Berichte von *Afar*-Frauen, die nach einer Vergewaltigung getötet wurden.

Berichte von Selbstmord. Aufgrund des psychischen, physischen und sexuellen Drucks und der «extremen Scham», welchen Frauen nach einer Vergewaltigung ausgesetzt sind, entscheiden manche Frauen, Selbstmord zu begehen (*Human Rights Concern Eritrea*, März 2017; UNHRC, 2016; UNHRC, 2015).

Zusätzliche Stigmatisierung bei einer Schwangerschaft nach einer Vergewaltigung. Gemäss UNHRC (Juni 2016) werden Frauen und Mädchen, die Opfer sexualisierter Gewalt sind, zusätzlich stigmatisiert, wenn sie nach der Vergewaltigung ein Kind bekommen. Gemäss einem ehemaligen Militäroffizier werden Frauen in militärischen Trainingslagern geschwängert und anschliessend aufgefordert, nach Hause zu gehen. Niemand würde sich um die Frauen und die Kinder kümmern. Die meisten dieser Frauen werden vom Nationaldienst freigestellt ohne ein Gehalt oder dergleichen zu erhalten. Sie hätten keine Zukunft: Als Prostituierte würden sie auf der Strasse enden und knapp ausreichend verdienen, um sich selbst und ihre Kinder zu ernähren. Die *UN-Untersuchungskommission für Menschenrechte in Eritrea* (UNHRC, Juni 2015) berichtet von jungen Frauen, die beschlossen hätten, das Land zu verlassen, nachdem sie von ihrer Schwangerschaft erfuhren. Eine junge *Afar*-Frau sei gezwungen worden, ihre Gemeinschaft zu verlassen, als aufgedeckt wurde, dass sie von einem Militärangehörigen vergewaltigt wurde und danach schwanger war.

Ein Schwangerschaftsabbruch kann zu Komplikationen und gar dem Tod führen. Verschiedene Frauen brechen eine unerwünschte Schwangerschaft nach einer Vergewaltigung ab (*Human Rights Concern Eritrea*, März 2017). Die Abtreibung kann zu rechtlichen Problemen sowie körperlichen Komplikationen, zu Infektionen und zum Tod führen.

Verschiedene Frauen werden mit HIV/AIDS oder anderen sexuell übertragbaren Krankheiten angesteckt. Dies führt zu einer grösseren Stigmatisierung. Laut Angaben der *UN-Untersuchungskommission für Menschenrechte in Eritrea* (UNHRC, Juni 2016) werden bei den meisten Vergewaltigungen in Trainingslagern der Armee keine Kondome verwendet. Abgesehen von unerwünschten Schwangerschaften führt dies zur Ansteckung von sexuell übertragbaren Krankheiten einschliesslich HIV/AIDS. Es gebe zwar keine wissenschaftliche Beweise, welche die Verbreitung von HIV/AIDS auf die Militarisierung zurückführen. Dennoch sehen viele die Promiskuität und den sexuellen Missbrauch im Nationaldienst als Faktoren, welche die Verbreitung des HI-Virus vorantreiben (*Gaim Kibreab*, April 2017). Gemäss Statistiken der eritreischen Regierung von 2002 war die Rate von HIV/AIDS-Infizierten in

der Armee mit 4,6 Prozent höher als bei der allgemeinen Bevölkerung (Kibreab, 2017).

HIV-infizierte Menschen leiden gemäss der *UN-Untersuchungskommission* (UNHRC, 2016) unter zusätzlichen Menschenrechtsverletzungen. So sei ein zehnjähriges Mädchen, welches durch einen Soldaten vergewaltigt und dabei mit dem HI-Virus infiziert wurde, aufgrund seiner Krankheit sowohl innerhalb als auch ausserhalb der Schule stark diskriminiert und stigmatisiert worden. Ausserdem haben HIV-Kranke laut UNHRC (Juni 2015) aufgrund beschränkter Finanzmittel kaum Zugang zu einer angemessenen medizinischen Versorgung.

28 Too Many, November 2017:

«Eritrea published new Penal, Civil, Civil Procedure and Penal Procedures Codes (formally Transitional Codes) in 2015. Although the Minister of Justice announced that the new codes were being put immediately into effect, other sources, (such as the Gazette of Eritrean Laws Vol. 23) state that they have not yet come into effect and the courts continue to use the Transitional Codes.»

Quelle: 28 Too Many, Country Profile: FGM in Eritrea, November 2017, S. 30:
www.refworld.org/docid/5a17e8c44.html.

Amnesty International (AI), 22. Februar 2017:

*«Der obligatorische Militärdienst konnte nach wie vor auf unbestimmte Zeit verlängert werden, obwohl die Regierung bereits 2014 angekündigt hatte, das System abzuschaffen. Ein grosser Teil der Bevölkerung war auf unbestimmte Zeit - in einigen Fällen bis zu 20 Jahre lang - zum Militärdienst eingezogen. Obwohl das Mindestalter für die Einberufung bei 18 Jahren lag, mussten auch weiterhin alle Schüler das letzte Schuljahr im **militärischen Ausbildungslager Sawa** verbringen. Damit wurden de facto auch Minderjährige zum Militärdienst eingezogen. Die Lebensumstände in dem Ausbildungslager waren hart. Die Schüler unterlagen militärischer Disziplin und erhielten ein Waffentraining. Von den etwa 14000 Personen, deren Ausbildung in Sawa im Juli 2016 endete, waren 48% Frauen. **Für diese waren die Bedingungen besonders hart: Sie waren u. a. sexueller Versklavung und Folter sowie anderen Formen sexueller Übergriffe ausgesetzt.**»* Quelle: Amnesty International (AI): Amnesty International Report 2016/17 - The State of the World's Human Rights - Eritrea, 22 February 2017: www.amnesty.de/jahresbericht/2017/eritrea.

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 12. März 2015:

«(b) Reports that women performing national service are frequently victims of sexual violence, including rape, committed by officers and male recruits and that women who refuse sexual advances are often severely punished; (...)

(d) Reports that many girls drop out of school, become pregnant and/or are forced to enter into child marriages to avoid enrolment at the Sawa Military Training Centre and national service; (...)

The Committee is further concerned about the prevalence of child marriage and the fact that polygamy persists in some Muslim communities. (...)

Violence against women.

The Committee is deeply concerned about reports that violence against women and girls is widespread in the State party, in particular in the domestic sphere, in educational institutions and in the context of national service. It remains particularly concerned:

(a) That the State party has not yet adopted comprehensive legislation that explicitly criminalizes all forms of violence against women, including marital rape;

(b) That **traditional and religious leaders often mediate in domestic violence cases;**

(c) That alleged perpetrators of sexual violence against women in the context of national service are rarely prosecuted;

(d) That **no specific evidentiary, medical and forensic procedures exist to address cases of violence against women;**

(e) That **no information has been provided on mechanisms of redress, rehabilitation and compensation for women who are victims of violence and on assistance to and protection of witnesses;**

(f) That **there are insufficient statistical data on violence against women, disaggregated by age and the relationship between the victim and the perpetrator.**
(...)

21. The Committee recommends that the State party: (...)

(c) Ensure that alleged perpetrators of violence against women, including domestic violence and sexual violence, are duly prosecuted by a competent criminal court, witnesses are assisted and protected and victims are compensated, and that **mediation is not given preference over criminal proceedings in domestic violence cases;** (...)

11 36. The Committee notes the measures taken to promote the participation of women in economic life, including the provision of microcredit, but remains concerned: (...)

(b) That sharia is applied in inheritance cases in Muslim communities, under which a woman's share of land is half of that to which a man is entitled;

(c) That **the position of women in polygamous marriages is uncertain in this regard, given that husbands may register land under the name of only one of the wives;**(...)

Women in detention

40. The Committee is concerned about reports that women in detention, including secret detention, are subjected to multiple forms of violence, including sexual violence, by male guards and that cases are not adequately prosecuted. It notes with concern that there is no independent monitoring body in place to visit places of detention. (...)

Marriage and family relations 42.

The Committee is concerned that, although the minimum age for marriage is set at 18 years, child marriage remains prevalent in the State party. It is also concerned that discriminatory provisions of family law are implemented in Muslim communities with respect to issues concerning marriage, divorce and inheritance, including provisions that allow polygamous marriages.» Quelle: Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Concluding observations on the fourth and fifth periodic reports of Eritrea, 12. März 2015, S. 2-3, 5-6, 11-13: www.ecoi.net/file_upload/1930_1431527537_n1506769.pdf.

Eritreische Regierung, 2003:

«According to one study, conducted in 2001 in the Central Region of Eritrea, 40% of women have been victims of domestic violence. As of that time, there were no counseling or mediation services provided for domestic violence victims, nor were there any legal aid mechanisms for women who wanted to press charges. Additionally, that study indicated that prosecution for domestic violence will only be pursued where the violence is life-threatening, meaning that a weapon must be used.

Another regional study indicated that as many as 90% of women are subject to domestic violence.²² Specifically, most interviewees in the study estimated that the rate of “sexual and gender-based violence” is between 5% and 25%. However, it was pointed out that these estimates would change drastically, resulting in a 90% prevalence rate, if domestic violence was included within the definition of “sexual and gender-based violence.”» Quelle: Eritreische Regierung, Violence against Girls in Eritrea. A Report to the Committee on the Rights of the Child, 2003, S. 204: www.legal-tools.org/doc/1901b3/pdf/.

Eritreisches Strafgesetzbuch, 2015:

«Art. 307. - Rape.

(1) A person who commits a sexual assault against another person by any act that involves the penetration of the body of the person assaulted, is guilty of rape, a Class 6 serious offence, punishable with a definite term of imprisonment of not less than 7 years and not more than 10 years.

(2) Rape between spouses is punishable only where the spouses are not living together in the same household under circumstances which do not show a mutual agreement or understanding between the spouses not to live together in the same household temporarily.» Quelle: Eritreisches Strafgesetzbuch (Penal Code of the State of Eritrea), 2015, S. 195: www.refworld.org/pdfid/55a51ccc4.pdf.

Eritreisches Strafgesetzbuch, 1957:

«Art. 528. — Principle.

(1) The deliberate termination of a pregnancy, at whatever stage or however effected, is punishable according to the following provisions, except as otherwise provided (Art. 534).

The nature and extent of the punishment awarded for intentional abortion shall be determined according to whether it is procured by the pregnant woman herself or by another, and in the latter case according to whether or not the pregnant woman gave her consent. Termination of pregnancy by imprudence or negligence does not come under the criminal law.

(2) The advertising for contraceptive or abortive, means is punishable under the Code of petty offences (Art. 802).

Art. 529. — Abortion procured by the Pregnant Woman.

(1) A pregnant woman who procures her own abortion is punishable with simple imprisonment from three months to five years.

(2) Any other person who procures for her the means of, or aids her in the abortion shall be punished in accordance with the general provisions as an accomplice or co-offender. In the latter case, the punishment is simple imprisonment from one to five years.

Art. 530. — Abortion, procured by another.

(1) Whosoever performs an abortion on another, or assists in the commission of the offence, is punishable with rigorous imprisonment not exceeding five years.

(2) Rigorous imprisonment shall be from three to ten years, where the woman was incapable of giving her consent, or where such consent was extorted by threats, coercion or deceit, or where she was incapable of realizing the significance of her actions, or where the intervention was effected against her will. (...)

Art. 533. — Extenuating Circumstances.

Apart from the general extenuating circumstances justifying ordinary mitigation of the punishment (Art. 79), the Court may mitigate it without restriction (Art. 185) where the pregnancy has been terminated on account of an exceptionally grave state of physical or mental distress, especially following rape or incest, or because of extreme poverty.

Art. 534. — Termination of Pregnancy on Medical Grounds.

(1) Termination of pregnancy is not punishable where it is done to save the pregnant woman from grave and permanent danger to life or health which it is

impossible to avert in any other way, provided that it is performed in conformity with the following legal requirements. (...)

Art. 589.— Rape.

(1) Whosoever compels a woman, to submit to sexual intercourse outside wedlock, whether by the use of violence or grave intimidation, or after having rendered her unconscious or, incapable of resistance, is punishable with rigorous imprisonment not exceeding ten years. Rigorous imprisonment shall not exceed fifteen years where the rapt is committed:

(a) on a child under fifteen years of age: or

(b) on an inmate of a hospital, alms-house or asylum, or any establishment of education, correction, internment or detention, who is under, the supervision or control of or dependant upon the accused person; or

(c) by a number of persons acting in concert.

Art.590. — Sexual outrages accompanied by violence.

Whosoever, by the use of violence or grave intimidation, or after having in any other way rendered his victim incapable of offering resistance, compels a person of the opposite sex, outside wedlock, to perform or to submit to an act corresponding to the sexual act, or any other indecent act, is punishable with rigorous imprisonment not exceeding eight years, or with simple imprisonment for not less than six months.» Quelle: Eritreisches Strafgesetzbuch (The Penal Code of Ethiopia), 1957: www.refworld.org/pdfid/49216a0a2.pdf.

Fachstelle Zwangsheirat, ohne Datum (Zugriff am 29. Januar 2018):

«Zwangsheirat: Menschenrechtsverletzende Fremdbestimmung.

Eine Zwangsverheiratung liegt dann vor, wenn mindestens eine der betroffenen Personen (Braut oder Bräutigam) sich zur Heirat gezwungen fühlt. Entweder findet die betroffene Person mit ihrem „nein“ und ihrer Weigerung kein Gehör oder sie wagt es gar nicht erst, sich zu widersetzen, weil sie negative Konsequenzen befürchtet. Der/die Verlobte, die Familie oder Verwandte üben mit unterschiedlichen Mitteln Druck aus. (...)

Zwangsehe: Bleibezwang in der Ehe.

Eine Zwangsehe ist ein Bleibezwang in einer bereits eingegangenen Ehe. Sie liegt dann vor, wenn sich mindestens eine der beiden EhepartnerInnen gezwungen fühlt, die Ehe fortzuführen und sie nicht aufzulösen, weil der/die EhepartnerIn, die Familie oder Verwandte mit unterschiedlichen Mitteln Druck auf den Verbleib in der Ehe ausüben. Ein solcher Bleibezwang kann nach allen Heiratsformen entstehen, beispielsweise auch nach einer selbstorganisierten Vermählung.» Quelle: Fachstelle Zwangsheirat, Begriffe und Definitionen, ohne Datum (Zugriff am 29. Januar 2018): www.zwangsheirat.ch/de/worum-es-geht/begriffe-und-definitionen/#Zwangsheirat.

Human Rights Concern Eritrea, 13. März 2017:

«Furthermore, due to the lack of adequate secondary schools, particularly in rural areas, children are forced to walk long distances to get to the nearest school, which renders many vulnerable young girls to rape and many are forced to stop attending school at an early age. **Sexual abuse is a taboo subject within Eritrean societies; many parents would not be willing to report sexual abuse for fear of stigma or isolation of the female child, yet the physical and psychological impact of it on young women is severe.**

Among others, the results are:

a. **Unwanted pregnancy: many choose to abort the pregnancy, but must deal with physical and legal issues. Abortion could result in infections and death. It could also result in fertility complications.**

b. **Social stigma: since it is taboo to bear a child outside of marriage, some young women decide to leave the country while they are pregnant and die in the process of crossing the border and others have drowned in the Mediterranean while trying to reach Europe.**

c. **Committing suicide: due to the psychological, physical, and sexual abuses many women endure they commit suicide, bearing huge psychological problems and trauma for the entire household, including the children they leave behind.»** Quelle: Human Rights Concern Eritrea, Report on Women's Rights Violations in Eritrea – HRCE Report 1/2017, 13. März 2017: <http://hrc-eritrea.org/report-on-womens-rights-violations-in-eritrea-hrce-report-12017/>.

Kibreab, Gaim, April 2017:

«**There are no regulations or guidelines that (1) define and limit the powers of military commanders; (2) forbid sexual misconduct of commanders against conscripts (i.e., no checks on such tendencies; (3) establish home or annual leave for conscripts; (4) prescribe punishment, such as how much can be inflicted and for what kinds of behavior; (5) establish appeal procedures and remedies against sexual and other abuses of power; (6) control allocation and use of conscripts' labor time; (7) determine criteria for assignment of conscripts after the six months of military training; or (8) ban collusion for the sake of obscuring such practices. The behavior of the commanders and their treatment of recruits are mostly unregulated, and as we shall see, abuses that permeate the ENS, including sexual victimization of female conscripts, exploitation of conscripts' labor power for personal gain, and infliction of inhumane punishments are the consequence of this absence of clearly defined and enforced constraints. The lack of regulation and monitoring gives the military commanders unlimited, unaccountable power and impunity.**

Although all female conscripts within the ENS are exposed to a high risk of sexual violence, the extent of the risk appears to be far higher among those assigned to remain in the Sawa military camp after their six months of military training, mainly as megebti (cooks, cleaners, and launders), secretaries, personal assistants of commanders, and office workers. Nevertheless, it is im-

portant to bear in mind that the problem is by no means limited to the Sawa military camp and that female conscripts face high risk of sexual violence regardless of the location of their assignment within the framework of the ENS. Given the unlimited power and authority of the army commanders, and their unconstrained ability to harm victims under their command, the use of force may not be necessary to achieve “consent.” A threat of punishment or assignment to hardship locations or frontline combat are apparently sufficient to engender acquiescence.

*Although none of the 190 respondents to the questionnaire denied the prevalence of sexual encounters between commanders and female conscripts, **some claimed that these relationships were consensual.** However, since the main reason offered for this consent was the shamefulness of rape, it is likely that their own answers were motivated by similar cultural factors: that is, their reluctance to expose individual women to shame and a preference, therefore, for providing an evasive explanation. In Eritrean tradition, female promiscuity and being the victim of rape are both shameful, and in fact, survivors of sexual violence tend to be more stigmatized than promiscuous women. Nevertheless, the reports of specific informants showed that sexual encounters between female conscripts and military commanders, rather than representing voluntary and mutually reached agreements, were unwanted by the woman and obtained by intimidation, coercive pressure, and abuse of power. **The unaccountable power of commanders and the widespread practice of torture and sexual abuse** in complete absence of state protection are enough to terrify young female conscripts who have never before lived outside of shielded familial environments. In some cases, the mere threat of violence and harsh punishment precipitates submission to sexual violence. Consent obtained under such circumstances is not genuine.*

*According to the key female informants who were interviewed in depth, **abusive officers apply various methods to force and blackmail female conscripts to respond positively to sexual demands.** Although few in number, those who refuse to comply—who, against all odds, insist on asserting their agency and individual choice—are assigned to dangerous tasks, or sent to dangerous locales and/or places of hardship, or face psychological bullying and physical punishment. Most interviewees reported that practices such as beating, detention in shipping containers or underground cells, exposure to extreme heat, or denial of home leave were also common. (...)*

*These comments show, on the one hand, the dearth of state protection against sexual violence and the ability of some commanders to act with absolute impunity, and on the other, the indomitable agency and power of female conscripts who defy the danger of sexual slavery despite intimidation and punishment. **Still, many female conscripts chose accommodation over defiance, resorting to unaffectionate marriages-of-convenience with male conscripts or with older men unaffected by the ENS, since married women are not always targeted and the fact of marriage may help a woman obtain a temporary release.** Many also use pregnancy as an escape route from the ENS, since pregnancy, though not an official grounds for discharge, is usually a successful strategy, though not necessarily a permanent one. The decision about whether to recall married women and mothers back to service after an initial discharge is arbitrary and open to abuse.*

The risk of being sexually molested in the army also has severe health implications. **Although there is no scientific evidence that attributes the spread of HIV/AIDS specifically to militarization, many people who were interviewed saw the ENS, and the promiscuity and abuse that are widespread in the service, as the vehicle through which the transmission of the lethal virus is accelerated. Government statistics show that in 2002 4.6 percent of men and women in the army were HIV-positive in comparison with 3 percent in the general population.** Whereas HIV/AIDS was the tenth highest killer in Eritrean hospitals in 1996, by 2001 it was the second most frequent cause of death among patients over five years of age (IRIN 2002). According to the World Health Organization document titled “Best Practices in HIV/AIDS Response in Eritrea,” “extrapolated from the results of the sentinel survey, close to 48,000 people are estimated to be living with HIV and AIDS in Eritrea. . . . The peak age for AIDS infection is 29 to 34 among males and 20–24 among females” (n.d.: 11). The most affected groups, therefore, are within the age of conscription. (...)

For example, R#49 (M) said, “The conscripts are forced to do whatever their commander orders them to do. The power of the commander is absolute and as a result, nothing can stop him from doing whatever he wants, including raping or sexually abusing female conscripts.” R#151 (M) said, “Yes women are subjected to sexual abuse because those who have power in Eritrea are able to do anything they want with impunity and without accountability.”

As we have seen, most women are unlikely to admit that they have been violated for fear of being stigmatized, bringing “shame” and “dishonor” to her family, and damaging her reputation in ways that may affect her prospects of finding a husband in the future. Fear of repercussions from the perpetrator and fear of forcibly being married to the abuser may also keep her quiet. **Given the sexist attitudes of the police, fear of not being believed is also a major factor.** The commanders are aware of this dark culture of silence and exploit it to their advantage. It is an irony, of course, that it is the abused rather than the abusers who are preoccupied with the potential loss of honor and reputation.» Quelle: Kibreab, Gaim, Sexual Violence in the Eritrean National Service, in: African Studies Review, Volume 60, Nummer 1, April 2017, S 131-132, 134-137 (nicht öffentlich zugänglich): <https://muse.jhu.edu/article/655346>.

Library of Congress, 7. März 2016:

«It appears that the new codes, which were published in May 2015, have yet to take effect. The Eritrean government’s position on this phase of the process is unclear. While the issuance of the codes was not accompanied with an announcement regarding the exact date of implementation, in an interview with a state run media, the Minister of Justice, Ms. Fawzia Hashim, suggested that the codes had taken effect. However, **there is evidence that the transitional laws that had been in place since independence continue to be applied.** For instance, the Legal Tender Nakfa Currency Notes Regulations (No. 124/2015), which were enacted in November 2015, months after the publication of the codes, make reference to the transitional laws and not the new codes (art. 6). It is possible that the implementation process could take a few years to complete.» Quelle: Library of Congress, New Eri-

trean Codes Now Available to Researchers, 7. März 2016:
<https://blogs.loc.gov/law/2016/03/new-eritrean-codes-now-available-to-researchers/>.

Niederländisches Aussenministerium, 6. Februar 2017:

«*Violence, including sexual violence*

*Violence against women, as well as rape, is a criminal offence in Eritrea. Rape carries a ten-year prison sentence and gang rape, rape of a minor or a disabled person carries up to fifteen years. If a perpetrator marries the victim with her consent, he escapes prosecution. **Marital rape is not an offence. Out of shame, most women do not report domestic and non-domestic violence or rape. Domestic violence still occurs frequently, especially in rural areas.** Although domestic violence is a crime, **such matters are rarely brought to justice.** Sometimes an attempt is made to resolve the issue within the family or the religious circle. According to the UN Commission of Inquiry, some cases of sexual assault in local communities are tried and the perpetrators are sentenced to imprisonment. Sexual harassment and rape of women during military training and military service still occurred regularly according to the UN Commission of Inquiry.⁴⁴⁹ According to the Commission, some young women had to perform household chores for the military officers in Sawa, Wi'a and other military training camps. They had to cook, clean, do laundry and make coffee. Some women were forced into sexual acts. Military personnel in subordinate positions were ordered to pick up women for their superiors. Women were subjected to physical and mental punishment if they did not cooperate. In some cases they were imprisoned or forced to have abortions.⁴⁵⁰ Women and girls who try to leave the country are reportedly still at increased risk of sexual violence.⁴⁵¹ Some Eritrean women and girls who went to the Gulf States to do domestic work were subjected to sex trafficking on arrival. Smaller numbers of women and girls are sexually exploited in South Sudan, Sudan and Israel.» Quelle: Niederländisches Aussenministerium, Algemeen Ambtsbericht Eritrea, 6. Februar 2017, S. 55: www.ecoi.net/file_upload/1226_1502861555_coi-eritrea-2017.pdf.*

OECD Data, ohne Datum (Zugriff am 16. Januar 2018):

«*Violence against women. Attitudes towards violence / Prevalence in the lifetime, Percentage, 2014. Source: Gender, Institutions and Development (Edition 2014)*

Eritrea:

Attitudes towards violence: 71.0

Prevalence in the lifetime: .. (...)

Definition of Violence against women

The violence against women indicator presents you with data on:

- **Attitudes toward violence: The percentage of women who agree that a husband/partner is justified in beating his wife/partner under certain circumstances**
- **Prevalence of violence in the lifetime: The percentage of women who have experienced physical and/or sexual violence from an intimate partner at some time in their life.**» Quelle: OECD Data, Violence against women, ohne Datum (Zugriff am 16. Januar 2018): <https://data.oecd.org/inequality/violence-against-women.htm>.

UN Human Rights Council (UNHRC), 8. Juni 2016:

«Sexual violence suffered by women and girls

Collecting evidence on cases of sexual violence suffered by women and girls in Eritrea proved difficult due to cultural, social, and religious beliefs associated with marriage and sexuality. Victims' reluctance to disclose information stems from the trauma and general shame they feel as well as the stigma which attaches to them if the harm they have suffered is known. Indeed, many women mentioned the cultural emphasis on their virginity, chastity or monogamy as one of the reasons to fear speaking about sexual violence. As a woman's virginity and chastity are highly regarded in much of Eritrea, many victims of rapes are unable to marry and therefore prefer to remain silent. On top of the trauma, "[t]he honour system causes additional shame". As a result, in some instances, women and girls who were raped committed suicide. The Commission also heard evidence that, within some ethnic or religious groups, if a woman is raped, she is rejected by her community. Finally, women and girls suffer even more stigma if they have a child from the rape. For all these reasons, rape is an underreported crime in Eritrea and most of the victims of such acts live in a culture of silence. (...)

122. Moreover, in some instances, women and girls who tried to flee the country and were arrested by soldiers guarding the border were forced to strip naked, or nearly naked, and submitted to acts of sexual violence, which in some cases amounted to rape, as described by one witness who tried to flee in April 2015:

"What was really sad...we were men, women and children...they obliged everyone to take off all their clothes so they could search them. [...] All the guards were men. They searched the women and were touching them. The women couldn't say no. They felt bad and we felt bad but could do nothing. They searched everywhere, even the genitals, with their hands. They even laughed about it. Even put their fingers inside the women's genitals and the little girls' genitals – 5-year-old girl, a 9-year-old girl. The girls cried."

In nearly all the cases documented by the Commission, the rape led to physical and/or mental suffering and pain – including post-traumatic stress disorder – and, in some instances, to unwanted pregnancy or transmission of sexually-transmitted diseases, such as HIV. This resulted not only in the violation to be free from torture and from cruel, inhuman or degrading treatment or punishment but also to the right to sexual and reproductive health.

124. *Victims of rape infected by HIV suffered additional human rights violations. For example, a young girl who was only 10 year-old when raped by a soldier described to the Commission the discrimination and stigmatisation she faced at school, outside school, and while in detention because of her illness. (...)*

The facts

*The Commission conducted interviews detailing incidents of rape against women, girls, and men. As explained in more detail below, **the evidence collected indicates that instances of rape which can be legally qualified as a crime against humanity, given that they were committed as part of a widespread or systematic attack directed against the Eritrean civilian population, occurred in two distinct circumstances. The first is in military training centres and in the army, the second is in detention. A third occurrence concerns rape of women and girls from the Afar ethnic minority by military officers.** However, given its limited resources, the Commission has not been able to investigate further these instances of rape and to establish whether these rapes were also committed as part of a widespread or systematic attack directed against the Eritrean civilian population. Accordingly, the Commission is of the view that its inquiry may have only partially captured the extent and details of rape as a crime against humanity.*

a. Rape in military training centres and in the army

Women are at a disproportionate risk of discrimination and violence within the military/national service and in the army and are targeted for sexual abuse on account of their gender. As described above in the section on enslavement as a crime against humanity, many women in military training centres, as well as to a lesser extent in the army, are raped by military officials and trainers.

The extent of the rape in the military/national service is best described by a male military officer:

“Sexual violence and rape are very common in the national and military service especially against recruits; it also happens a lot when soldiers are conducting raids. [...] They take the young ladies there as wives and they have children by them and discard them. They do this to many recruits; when the women don’t agree they force them and threatened them sometimes [...] in the public; they are forced when they refuse to have sex with the commanders. **It is not just the commanders but even common soldiers do that, but the commanders start this first; they select the women first. When new ones arrived they do the same thing to them. [...] I remember that one lady refused to have sex with the commander; after a while the commander got drunk and put the lady at gunpoint and raped her. There are many girls who were raped like this during training or when already in services. **All these sexual violence crimes took place in Sawa military training centre** [during a period of six years until I left the national service]. I can’t give you an estimate of the number of victims but they are many; they complained to other colleagues about the rape but not to the commanders. On several occasions the women raised the problems with the overall commander of the Sawa military training school [...]; all times the commander re-**

sponded that please deal with this issues directly with the persons you have problem with. **The reason for not addressing this problem against the perpetrators is very simple; because these commanders know each other so nothing happens when reported.** They also reported the problem to [...] at the cadre school but he responded that people should take care so that these things should not backfire in the public. [...] At the time we received many cases and complaints [...]; you will imagine that if this bad things happened in the main training centre and nothing happen[s], what do you think is happening in the remote training camps? [...] I [am aware] of information from all training centres across the country [...]. **Very bad things happened to these women; women get pregnant and bore children. They are told to return home and no one takes care of the children and the women. These women don't have a future; some have ended up in the streets as prostitutes just to earn money to feed their children and themselves. Most of these women are released from the national service without paying them salary or anything.**" (...)

Moreover, in most instances, the perpetrators did not use condoms, which in some cases led to unwanted pregnancies and/or transmission of sexually-transmitted diseases, such as HIV. Finally, in many occasions, rape resulted in physical and psychological impairment. In light of the above, the Commission is satisfied that the first element of rape as a crime against humanity is met given that these women were vaginally penetrated by the sexual organ of the perpetrator(s).(...)

b. Rape in detention

While the vast majority of cases of rape in detention concern the penetration of the vagina of the victim by the penis of the perpetrator, the Commission also documented other forms of rape, including: (a) objects, such as pens, being inserted in the anus of women; (b) metal rods being inserted in the vagina of a woman up to her womb; **(c) male detainees being raped by male perpetrators; as well as (d) male detainees being forced to have sex with other male detainees. In some cases, victims reported being raped only once by one single perpetrator. In other instances, survivors provided evidence about being raped multiple times or gang raped, including over extended period of time.**» Quelle: UN Human Rights Council (UNHRC), Detailed findings of the commission of inquiry on human rights in Eritrea, 8. Juni 2016, S. 7-8, 31, 74-77: www.ecoi.net/file_upload/1930_1470821343_a-hrc-32-crp-1-e.doc.

UN Human Rights Council (UNHRC), 5. Juni 2015:

«50. Sexual violence, particularly against women proved difficult to document owing to the cultural contexts specific to Eritrea, as well as to the general shame and stigma that still attaches to victims. Eritrean women were generally afraid to speak about sexual violence because of the cultural emphasis on their virginity, chastity or monogamy. Women reported that they customarily self-censor to avoid shame being brought upon their families as news travels quickly and easily through communities both inside and outside Eritrea. In Eritrea, the social shame a sexual violence victim suffers from can in turn lead to ostracism, inability to marry if single, and divorce and loss of children if married. In some cases, women also feared violence from their families if their experience of sexual violence

was known. In the Afar community women and girl victims of sexual violence were also afraid that such violence could lead to their death.

51. The Commission also received reports of suicide among victims of sexual violence in Eritrea as a result of the extreme shame, stigma and related consequences from which they traditionally suffer. In the words of a woman who spoke with the Commission: (...)

708. The Commission has received a large amount of testimony relating to the sexual abuse of Afar women and girls, in particular by members of the military.⁸⁸⁸ **A predominantly Muslim community, the Afar people live in the lowlands and border regions of Ethiopia and Djibouti and are traditionally nomadic people. They contend that rape and sexual abuse of Afar women and girls by members of the military is a deliberate attack on their community by the State and a tactic to force them from their traditional lands. Reports of Afar women killed after being raped were also received.** Gender-related killings are not isolated incidents, but rather represent the ultimate act experienced in a continuum of violence by women living under conditions of gender-based discrimination.

709. The Commission received reports of the military being unwilling to render assistance to victims and to investigate allegations of violence against women perpetrated by members of the military.

A young woman, raped by a member of the military and forced to leave her community due to the shame associated with discovering the rape had resulted in pregnancy, explained that in her community the police are no longer present and the military are unhelpful: “There is no Government person you can tell. They are all mafia. Police were there before but they have since left. Now it is only military. I was too afraid to tell my family. And also I was afraid for my family members if they said something to the military.” (...)

b. Violence against women by non-State actors

710. The Commission has also received reports of sexual violence perpetrated against women by non-State actors in the community. **The reports indicate that women are most vulnerable to violence when seeking to leave the country as they are at the mercy of persons who may take advantage of the clandestine nature of such departures.**

711. Inside the home, women are vulnerable to domestic violence, which is reported to be pervasive in Eritrea. **The underlying traditional views of women’s place and role in society, the militarisation of the population, the resulting pressures on the family and the abundance of weapons in society give rise to violence against women in the home.** Eritrean families face considerable hardship, including the stress and dangers of national service, financial pressure due to their inability to earn even a subsistence income; financial demands from officials, smugglers and traffickers; and the constant threat of detention and disappearance. Many Eritreans face frustration and despair at the lack of control over their own lives.⁸⁹⁵ Alcohol abuse and mental health problems have also been reported.⁸⁹⁶ Customary defer-

ence to the privacy of the home and the family facilitates the perpetration of domestic violence with impunity.

712. The Commission received testimony suggesting the police are unwilling to act on reports of domestic violence or to provide assistance to victims.

The Commission heard: "You cannot go to the police and tell them that your husband has abused you unless it is very severe; the police will not do anything."

A victim of domestic violence was refused police assistance several times. She told the Commission: "I went to the police many times when my husband attacked me, but the police told me I needed to tolerate it because this is how a marriage works. ... When I realised this was to be my life, I decided to escape to Sudan."

713. The Commission is aware the National Union of Eritrean Women (NUEW) disseminates information aimed at deterring violence against women, particularly FGM/C and domestic violence. The NUEW reportedly also provides some services to women victims of domestic violence. But, according to witnesses, services "are basically nonexistent". The Committee on the Elimination of Discrimination against Women, in its 2015 consideration of the fifth report submitted by Eritrea, noted that safe houses, rehabilitation services, redress and compensation for victims of domestic violence appear not to exist.

(ii) Lack of effective systems and services for victims

714. The Commission has received testimonies pointing to the limited and ineffective legal systems to protect, prevent, punish and remedy acts of violence against women.⁹⁰¹ Adequate policing, prosecution and punishment are required not only to investigate and punish offenders, but also to provide general deterrence. The general lack of rule of law and the non-impartial nature of the judicial system disproportionately affect women. It is extremely difficult for women victims of violence to report complaints and have them adequately investigated or prosecuted. This difficulty is more pronounced when the perpetrator of violence is a member of the armed forces. As noted above, the Commission has received testimony of attempts to report violence suffered by women to both the army and the police, only to be refused. Reportedly, family members of female victims have been subjected to violence when they attempted to report the sexual abuse. The deficiencies in the legal system lead to impunity for acts of violence against women. Such impunity leads to further acts of violence against women. When the State fails to hold perpetrators accountable, it intensifies the subordination and powerlessness of women, and sends a message to society that male violence against women is both acceptable and inevitable.

The victim of an attempted rape by a military officer told the Commission of making a contemporaneous complaint to two military officers. The officers told her to report the incident at the police station the following day. When she went there, the officer who had attempted the rape and the two officers to whom she had reported the incident were waiting. "They told me if I want to live peacefully, [to] go home and never talk to anyone about it."

The father of a young woman raped by a military officer was detained and tortured for one month after reporting the incident to the military camp leader.

715. Due diligence obligations also require procedures to take into account the needs and preferences of the individuals harmed.⁹⁰⁴ Services such as health care, counselling centres, legal assistance, shelters, restraining orders and financial aid are methods of meeting this obligation.⁹⁰⁵ None of the witnesses the Commission spoke with reported being able to access such services; the Commission can only conclude that they either do not exist or are insufficient.

716. The Commission further finds that there is a complete denial by the State of the extent of violence against women within its borders. A review of State reports to international bodies, witness testimony and a lack of data on violence against women all point to a **lack of willingness to acknowledge the existence of violence against women, particularly violence perpetrated by the State through members of the military, and in the home.** (...)

(iii) Wider consequences for girls, women and the community

718. The State's failure of due diligence to address violence against women not only leads to individual acts of violence against women, but also results in longer-term consequences both for the victim of an attack, and for the community as a whole. As a direct result of the Government's failure to prevent, prosecute and punish acts of violence against women, there is a widespread fear of sexual abuse of women and girls in the community. In response, **families reportedly take steps to prevent their daughters from being sexually attacked on their way to school or while at school. This includes stopping girls from going to school and keeping them close to their homes until they are married. In some communities, the prevailing view appears to be that the harm to a girl or woman is greater if she is sexually abused prior to marriage as opposed to after, because it ruins her marriage possibilities. Such views perpetuate early and under-age marriage, which further places girls and young women in positions of vulnerability to violence and abuse because of their age and sex.**

719. Rape and sexual violence against women also have health consequences, including HIV/AIDS, other sexually transmitted diseases and unwanted or unplanned pregnancies. With limited financial resources, victims are often unable to receive the care and services they need. The social stigma that attaches to victims of sexual violence compounds these problems. The victims are often ostracised and alienated from their families and communities.

720. Reports of young women electing to leave the country when discovering they were pregnant after being raped were also documented. The women described the shame associated with being known as having been violated as the reason for their departure. Others leave because they simply no longer feel safe. When the State fails in its obligations to protect women from discrimination and violence, and permits such acts to be perpetrated (particularly by State agents) with impunity, victims are left with no option but to leave in order to be safe. (...)

1202. *Early marriage is a traditional feature of many ethnic groups in Eritrea that continues in some groups today despite the legal age for marriage being 18 for both women and men. Additionally, many women and girls themselves seek to avoid national service through marriage or motherhood, or are coerced to do so by family members in order to avoid national service. The primary reason why girls seek to avoid national service is to avoid the risk of the sexual abuse that is known to occur within the national service (particularly during military training), but also to keep women and girls at home so that they may take care of family members and household responsibilities. (...)*

1205. *The Commission received recent reports indicating the Government of Eritrea is trying to restrict girls and women who have not completed national service from marrying. One report suggests the Government is prohibiting churches and mosques from officiating marriages of women and girls of conscription age without permission from the Government, which is only issued if the woman has completed national service. Such a prohibition would amount to a violation of the right to form a family. (...)*

a. *Forced domestic duties and sexual abuse of women and girls in military training.*

1312. *The Commission heard that young women conscripted into national service are discriminated against on the basis of their sex and are at a disproportionate risk of sexual violence from military camp leaders, trainers and other military personnel in the military training camps. **The Commission finds that discrimination and violence against women is to such a degree it also constitutes sexual slavery and torture.***

i. *Forced domestic duties*

*In the military training camps, many women and girls are forced to perform nonmilitary activities such as cleaning, laundry and coffee preparation for officers in military training centres.¹⁷⁵⁸ Despite the objective of conscripting both men and women to place them on an equal footing with one another,¹⁷⁵⁹ men and boys are never asked to perform these tasks.¹⁷⁶⁰ The forced servile status of women and girls in military training camps is rooted in traditional attitudes by which women are regarded as subordinate to men and perpetuation of stereotyped roles. Some women and girls are lured to perform these duties in the promise of additional food-stuffs such as milk.¹⁷⁶¹ **Others are forced to perform such duties and risk severe forms of punishment if they refuse.**¹⁷⁶² The Commission finds that such behaviour amounts to discrimination against women. The denial of their rights to non-discrimination and freedom from servitude also creates the conditions of vulnerability to violence and sexual abuse.¹⁷⁶³ The forced servile status is described to be the first step of military training leaders attempting to co-opt the female conscripts for sexual purposes.*

A young Eritrean woman described to the Commission how traditional practices and discrimination against women manifest in the military training camps: “Sawa is a reflection of how people view male and female roles in society today. The mantra is that we are all equal, and Sawa is sold in a similar way, there is no male/ female

etc., we are all equal. But inside, they don't ask men to clean their clothes, make their tea and coffee.”

A sister of a former conscript forced to perform domestic labour for a military leader within a training camp explained how it can begin: **“When my sister was a conscript, her boss asked her to prepare coffee – that is how it starts. The girls are afraid and they say yes – and then they are asked to cook, and clean, and finally they become theirs.”** (...)

A former trainer at Sawa military training centre told the Commission that the sexual abuse of young women in Sawa military training camp was “normal.” (...)

A victim of such violence explained: **“Not only can we not report it, it is part of our culture not to be able to say this. We are oppressed everywhere. We are oppressed in our homes, in society, in the military. I cannot report it to another officer, because it is my superior doing this to me. I cannot talk about it with other people. If I reported it and the case went to court, the whole neighbourhood would know. Then it would bring shame to the family. No one would marry the girl. No one will marry a raped girl. The officers do it because they know this, they know that no one will report it because of the social shame and self-censorship of women. A woman cannot live in our society and be known to be a rape victim. If anyone reported this, we would be punished. The punishment was very severe, for example, they forced us to carry buckets of water very far, tied arms and legs behind them and left them in the sun. There is no system of reporting. Women just try to avoid it in their own way.”** (...)

i. Shame, stigma and ostracism

1331. The Commission received several accounts describing the immense stigma that attaches to victims of sexual violence in Eritrea. The shame victims feel and stigma that may attach to them if the harm they have suffered is known can result in ostracism from their families and communities. **It can place a victim at further risk of violence and even death from a family member who perceives the victim's experience to stain or degrade the family's honour.** The shame and stigma also prevents women and girls from being able to access medical and other services they may need. **As a woman's virginity and chastity are highly regarded in much of Eritrea, victims of sexual abuse often consider the most severe consequence as being unable to marry.** Ostracised from her community and without marriage prospects, women are left with few options to survive, the most common ones being to engage in transactional sex or leave the country.» Quelle: UN Human Rights Council (UNHRC), Advance Version of the Report of the detailed findings of the Commission of Inquiry on Human Rights in Eritrea, 5. Juni 2015, S. 17, 187-190, 346-348, 379-380, 385-388: www.ohchr.org/Documents/HRBodies/HRCouncil/ColEritrea/A_HRC_29_CRP-1.pdf.

UN Women, 2016 (1):

«Prevalence Data on Different Forms of Violence against Women:

Lifetime Physical and/or Sexual Intimate Partner Violence : Official National Statistics Not Available

Physical and/or Sexual Intimate Partner Violence in the last 12 months : Official National Statistics Not Available

Lifetime Non-Partner Sexual Violence : Official National Statistics Not Available

Child Marriage :41 % ⁽¹⁾

Female Genital Mutilation/Cutting :**83 %**» Quelle: UN Women, Global Database on Violence against Women – Eritrea, 2016: <http://evaw-global-database.unwomen.org/en/countries/africa/eritrea>.

UN Women, 2016 (2):

«Between 2009 and 2012 there were 302 cases in which women filed charges or complaints in courts against sexual assaults they encountered. The cases brought to the court included rape, sexual outrage and seduction, adultery, and bigamy.» Quelle: UN Women, Global Database on Violence against Women – Women Filing Charges against Sexual Assault - Eritrea, 2016: <http://evaw-global-database.unwomen.org/en/countries/africa/eritrea/2009/women-filing-charges-against-sexual-assault>.

US Department of State (USDOS), 3. März 2017:

«The COI reported sexual violence against women and girls was widespread in military training camps, the sexual violence by military personnel in camps and the army amounted to torture, and the forced domestic service of women and girls in training camps amounted to sexual slavery. In a March 2015 report, the Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern regarding reports of women in national service frequently being subjected to sexual violence, including rape. (...)

Rape and Domestic Violence: Rape is a crime punishable by up to 10 years in prison if convicted. Conviction of gang rape or rape of a minor or an invalid is punishable by up to 15 years in prison. Conviction of sexual assault is punishable by six months to eight years in prison. The law does not specifically criminalize spousal rape. No information was available on the prevalence of rape, which citizens seldom reported to officials. (...)

Sexual Harassment: There is no specific law against sexual harassment. Cultural norms often prevented women from reporting such incidents. There was no record of any person ever being charged or prosecuted for sexual harassment.

Early and Forced Marriage: The legal minimum age for marriage for both men and women is 18, although religious entities may condone marriages at younger ages. According to the 2010 Population and Health Survey, 41 percent of women ages 20-24 were married before 18 and 13 percent before 15. Girls in rural areas were particularly at risk for early marriage.» Quelle: US Department of State (USDOS):

Country Report on Human Rights Practices 2016 - Eritrea, 3. März 2017, S. 3, 18-20:
www.state.gov/j/drl/rls/hrrpt/2016/af/265252.htm.