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Landinformationsenheten

## Fråga-svar

### **Djibouti. Regler och traditioner vid giftermål mellan djiboutier och somalier**

#### **Fråga**

Information önskas om somalier som gifter sig med djiboutier i Djibouti. Finns det några krav på uppvisande av dokument eller id-handlingar? Hur ser ceremonierna ut?

#### **Svar**

##### **Befolkning**

Två folkgrupper dominerar i Djibouti. I söder finns den somaliska klanen issa och i norr afarer (vilka även finns i Etiopien och Eritrea). Mellan dessa två folkgrupper råder spänningar. Det finns dessutom tre somaliska klaner till i landet: gadabursi, issaq och darod. Både de somaliska klanerna och afarerna har traditionellt levt som nomader och tjänat sitt uppehälle som boskapsskötare. Idag lever dock den större delen av befolkningen i städer. Nomaderna rör sig relativt fritt över gränserna till Etiopien, Eritrea och Somalia. Utöver dessa folkgrupper finns ett litet antal européer och araber (främst jemeniter). (Utrikespolitiska Institutet, 2011)

Det råder religionsfrihet i Djibouti. Islam är statsreligion och en majoritet av befolkningen är sunnimuslimer. Det finns dessutom en liten kristen minoritet bestående av främst romerska katoliker. (Utrikespolitiska Institutet, 2011)

##### **Äktenskap**

Det djiboutiska rättsväsendet bygger på fransk och islamisk lagstiftning. Efter det att landet blev självständigt från Frankrike 1977 anpassades

rättssystemet till islamisk sharialag. Delar av det franska systemet behövs med tre olika rättsinstanser – vanliga domstolar, en appellationsdomstol och Högsta domstolen. På landsbygden praktiseras sedvanerätt och sharialag tillämpas främst i familjerätten. (Utrikespolitiska Institutet, 2011)

Muslimer vänder sig till "family courts" vid giftermål, skilsmässa och arv. Dessa domstolar inkluderar inslag av både civilrätt och sharia. Icke-muslimer vänder sig till civila domstolar. Regeringen tillåter bara att icke-muslimska utlänningar genomför civila giftermål. Muslimer måste ingå äktenskap i en religiös ceremoni. (US State Department 2011)

A non-Muslim man may marry a Muslim woman only after converting to Islam. According to the family code, "impediment to a marriage occurs when a Muslim woman marries a non-Muslim." (US State Department 2011)

Blandäktenskap är vanliga i Djibouti men äktenskap mellan midgan och medlemmar ur andra klaner, inklusive issa, är ovanliga men inte förbjudna enligt lagen. I de fåtal fall det förekommer är det vanligare i huvudstaden Djibouti än på landsbygden. (IRB Canada 1999)

Djiboutis familjelag (*Code de la famille*) förbjuder en muslimsk kvinna att gifta sig med en icke-muslimsk man. Mannen måste i så fall konvertera till islam. IRB Canada uppger följande gällande konvertering. [För att läsa Code de la famille i sin helhet: [http://www.adh-geneva.ch/RULAC/pdf\\_state/Law-of-31-January-2002-on-Family-Code.pdf](http://www.adh-geneva.ch/RULAC/pdf_state/Law-of-31-January-2002-on-Family-Code.pdf)]:

...converts may face negative societal, tribal, and familial attitudes towards their decision" (US 19 Sept. 2008, Sec. 3; Open Doors USA n.d.) and often face pressure to revert to Islam (ibid.)." (IRB Canada 2009)

Samtycke från båda parter krävs för att ett giftermål ska godkännas.

Article 7 of the Family Code indicates that the consent of both parties, as well as the consent of the male legal guardian of the woman, is required in a valid legal marriage (ibid. 2002b). (IRB Canada 2007)

IRB Canada (2007) uppger att Djibouti år 2005 ratificerade ett protokoll om kvinnors rättigheter, där en artikel kräver att minimiålder för en kvinna som ingår äktenskap är 18 år. En källa som konsulterats hävdar att arrangerade äktenskap och tvångsäktenskap ändå kan förekomma.

In February 2005, Djibouti ratified a protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (UN 21 Feb. 2005; see also CISA 29 Mar. 2005). Adopted for ratification in Maputo [Mozambique] in July 2003 and commonly referred to as the Maputo Protocol, the protocol protects a range of women's rights, including economic, social, health and reproductive

rights (UN 21 Feb. 2005; ACPHR 11 July 2003; see also CISA 29 Mar. 2005). Article 6 of the Maputo Protocol requires that state parties implement appropriate national legislation to ensure that "no marriage shall take place without the free and full consent of both parties" (ACPHR 11 July 2003). Article 6 also requires state parties to ensure that "the minimum age of marriage for women shall be 18 years" (ibid.; see also CISA 29 Mar. 2005). The Protocol came into force in November 2005 following its required ratification by 15 African governments (CISA 25 Nov. 2005). (IRB Canada 2007)

Despite this legislation, a January 2007 article on the United Nations Children's Fund (UNICEF) Web site suggests that arranged or forced marriages may still occur in Djibouti. Cited in the article, a girl living in a rural Djiboutian village indicates that "all marriages are arranged" in her community and that "girls must obey their parents' decisions" (UN 2 Jan. 2007). Further information on whether the Maputo Protocol has been effectively implemented in Djibouti could not be found among the sources consulted by the Research Directorate. (IRB Canada 2007)

#### United Nations Committee on the Rights of the Child (2007):

Effective protection against early marriage of girls has been provided in the Family Code, which fixes the age for marriage at 18 years, for both men and women (art. 13). Marriage of minors remains strictly controlled and is the exception. It may take place only if a judge has been consulted, the parents or guardians have given their consent and there is a persistent wish on the part of the spouses (art. 14).(s. 19)

#### UN Committee on the Elimination of Discrimination against Women (CEDAW) (2011) skriver om diskriminering av kvinnan vad gäller äktenskap (både barnäktenskap och månggifte tas upp):

Discrimination against women in marriage and family relations  
36. The Committee notes with concern that under the 2002 Family Code:

- (a) Women may enter into marriage only with the consent of a guardian (art. 7) and may not get married to a non-Muslim man unless the latter converts to Islam (art. 23);
- (b) The requirement of payment to the bride of a dowry (mahr) in order for the marriage to be valid (arts. 7, 20 and 21);
- (c) Derogations from the minimum marriage age (18 years) are permitted subject to the consent of the legal guardian of the minor or authorization by a judge (art. 14);
- (d) Polygamy is retained but subject to certain economic safeguards for the first wife of the polygamous man (art. 22);(s. 13 f)

#### **Borgerlig vigsel**

Embassy of the United States in Djibouti (2009) skriver om regler för borgerlig vigsel. Alla utlänningar som gifter sig i landet, antingen med en annan utlänning eller med en djiboutier, måste registrera äktenskapet hos *Ministry of Interior*. Båda parter måste ha bott minst tre månader i landet och ha uppehållstillstånd. Rutiner för att ingå äktenskap beskrivs som följer:

The following documents must be provided by foreigners to the Office of Population:

1. Birth certificate.
2. Passport, with visa that has at least 3 months validity.  
Note: Visa regulations have changed. Those applicants not in a position to obtain or renew their visas to show the required validity of 3 months need to have a residence permit, called "Carte de Séjour."
3. Evidence of legal eligibility to marry (For example, if divorced, previous marriage certificate and the divorce decree dissolving the marriage).
4. Pre-marital medical examination certificate. This can be made by any medical doctor in Djibouti, specifying that it is for marriage purpose.
5. National identity card.
6. Photocopies of IDs of the two witnesses, one for each party.
7. If a marriage contract had been made before a notary public, a copy of the contract (this will be mentioned on the marriage certificate).
8. Certificate of Residence, provided by the Djibouti Prefecture (there is a stamp fee of DJF 600 for this document and it usually takes a day or two to establish).

### **Afarer -äktenskap**

Lewis (1998) skriver följande om afarers äktensskapstraditioner:

Girls are eligible for marriage from their tenth year; a man is not supposed to marry until he has killed, otherwise a girl whom he was courting would say, "You are a woman and I am a woman, so why come to me?" The first union (four wives are permissible according to the Sharia) is preferentially with a cross-cousin. The levirate and sororate are practiced, but if a widow belongs to another tribe she may escape leviratic union by returning to her natal group. Among the Asaimara, but not among the coastal Adoimara, when a boy is still too young to marry his cross-cousin, she may be temporarily given to someone else by the tribal elders and returned to her cousin when he has reached adulthood. The temporary husband then pays to the girl's cousin livestock for each child she has had in the interval. Women captured from other tribes in inter-tribal raiding are sometimes married, but this is not popular. Among the Adoimara of French Somaliland, the suitor pays bride-wealth to the father of his prospective bride and, having learnt where she is out herding, goes and tries to capture her. The girl is strongly defended by her companions and the suitor is stoned and may suffer serious injury. If he is successful, the girl spends seven days with him and then

returns to her father's house. A camel, which must be "bubbling", otherwise the children of the union will be puny, is brought, people assemble and the girl is dressed in all her finery. She is set upon the camel and led three times round her father's hut, after which she is lifted down and laid upon an embroidered mat and swung to and fro by singing women. She is shrouded to the eyes, so that no man may see her face, and led to a hut outside the village in the direction of the rising sun. Here she and her husband spend seven days, which are celebrated by feasting and games. She now returns to her father's hut for the last time before the marriage, and is fetched by her husband some days later.

Marriage is effected by a contract between the girl's father and the prospective bridegroom. For the celebration, for which the night of the full moon is favoured, the presence of someone able to read the Koran is required. The officiant ties the dark marriage veil on the bride's right hand and kills a goat over the threshold of the nuptial hut. The groom must wash his right foot in the blood of the slaughtered animal, and often one of its feet is kept as a memento. Sometimes a cock is killed as well.

As already stated there are indications that marriage is sometimes matrilocal, and there is no clear information on the extent to which the tribe is endogamous. (s.169f)

För ytterligare information om afarers äktenskapstraditioner se:

Pastoral Community Development Project (PCDP), *Social Analysis and Indigenous Livelihood Strategies in Afar Pastoral Communities*, 2005-11-01 (Lifos 24760)

<http://www.pcdp.org.et/Docs/Research/Participatory%20Research%20&%20%20Social%20Analysis%20-%20The%20case%20of%20Afar.pdf>

## **Somaliska äktenskap**

För somaliska traditioner och ceremonier gällande äktenskap hänvisas till följande rapporter som finns i Lifos:

Refugee Review Tribunal Australia, *Somalia - Arranged marriage - Wedding customs*, 2009-10-30

<http://www.mrt-rrt.gov.au/ArticleDocuments/177/SOM35661.pdf.aspx>

Migrationsverket, Somalia. *Äktenskap samt vårdnad av barn. Rapport från utredningsresa 27 februari - 12 mars 2009 till Hargeisa och Nairobi*, [Lifos 20971]

UD, *Äktenskap i Somalia*, 2005-07-04 [Lifos 14447 och 13498]

Abdullahai, Mohamed Diriye, *Culture and Customs of Somalia*, Greenwood Press, London, 2001 (Tillgänglig på Migrationsverkets bibliotek)

Denna sammanställning av information/länkar är baserad på informationssökningar gjorda av Migrationsverkets landinformationsenhet under en begränsad tid. Den är sammanställd utifrån noggrant utvalda och allmänt tillgängliga informationskällor. Alla använda källor refereras. All information som presenteras, med undantag av obestridda/uppenbara fakta, har dubbelkontrollerats om inget annat anges. Sammanställningen gör inte anspråk på att vara uttömmande och bör inte tillmätas exklusivt bevisvärde i samband med avgörandet av ett enskilt ärende. Informationen i sammanställningen återspeglar inte nödvändigtvis Migrationsverkets officiella ståndpunkt i en viss fråga och det finns ingen avsikt att genom sammanställningen göra politiska ställningstaganden. Refererade dokument bör läsas i sitt sammanhang.

## Källförteckning

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[http://djibouti.usembassy.gov/uploads/images/jBLU2wy3KEmeVSN6EJPzg/Marriage\\_Info\\_Sheet\\_Jun09\\_-\\_DJI.pdf](http://djibouti.usembassy.gov/uploads/images/jBLU2wy3KEmeVSN6EJPzg/Marriage_Info_Sheet_Jun09_-_DJI.pdf)

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<http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=printdoc&docid=3ae6ac7524>

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IRB Canada, *Djibouti: Prevalence of forced marriage; consequences of refusal and government protection available to those who refuse* (2005-2007), 2007-03-15

<http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=printdoc&docid=469cd6a514>

(Hämtad 2012-02-09)

IRB Canada, *Djibouti: Situation and treatment of Christians, including instances of discrimination or violence; effectiveness of recourse available in cases of mistreatment; problems that a Muslim can face if he or she converts to Christianity or marries a Christian* (2000-2009), 2009-08-05

<http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=printdoc&docid=4b20f03523>

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US State Department, *July-December, 2010 International Religious Freedom Report - Djibouti*, 2011-09-13  
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