



Seeking Justice for Rape in Somaliland The Role of the Criminal Justice System

8 March 2018

This year's International Women's Day comes on the heels of worldwide mobilisation for the rights of women. From the #MeToo movement in the United States, to legal challenges in India and global marches and campaigns pressing for gender equality, there have been voices throughout the world advocating for women's rights.

Two months ago today, on 8 January 2018, Somaliland joined this global movement with the passage of a Sexual Offences Bill which aims to provide greater legal protection to women. Somaliland's girls and women deserve a criminal justice system willing and able to prosecute rape effectively. International Women's Day serves to remind us of the importance, and urgency, of making this goal a reality.

The Bill radically amends the outdated provisions of the Penal Code on rape. If passed in its current form, the prosecution of rape will no longer solely depend on evidence of force, and convicted persons will face greater prison time. Its passage will undoubtedly be a milestone.

But changing Somaliland's criminal laws alone will not automatically lead to the successful prosecution of rape. While International Women's Day inspires us all to celebrate the remarkable progress women have made throughout the world, it also compels us to identify and address the numerous obstacles and challenges they continue to face in all walks of life and to suggest practical and innovative solutions.

In a forthcoming report, *Horizon Institute* does just that, documenting the multiple barriers to prosecuting rape in Somaliland, beyond an archaic penal law, and putting forward feasible recommendations to bring justice to victims and their families. *Seeking Justice for Rape in Somaliland: The Role and Limitations of the Criminal Justice System*, analyses the major impediments to prosecuting rape, from the victim's reluctance to report, the influence of her elders, ignorance and mistrust of formal courts to the enormous costs of taking a case to court.

Obstacles to reporting mean that many rape cases are resolved through Somaliland's customary form of justice, known as *Xeer*. But customary agreements do not hold individuals accountable for their actions. Instead, the accused is often only required to pay monetary compensation. He is set free, in the knowledge that if he commits another rape, there will be no personal consequences.

Even when a victim reports a rape and her case enters the criminal justice system, families are often negotiating in parallel to the prosecution and the case may be dropped if they reach an agreement. In 2014, Somaliland's Attorney General, Hassan Ahmed Adan, issued a directive ordering prosecutors and judges not to accept customary agreements in rape cases.

Seeking Justice for Rape in Somaliland shows that while the directive has enabled some prosecutors and judges in major urban towns to reject customary agreements, rape cases continue to be resolved through *Xeer* because they go unreported, or are withdrawn or dismissed from the courts in defiance of the directive.

Whether or not the directive is effective, however, the criminal justice system faces other challenges when prosecuting rape, in particular lack of evidence, compounded by an unfriendly criminal justice system characterized by inaccessible government services, the absence of a victim-centred approach to prosecutions and insufficient support services.

If Somaliland is going to change this and make rape prosecutions both more effective and victim friendly, then it will take more than passing a new law and enforcing the Attorney General's directive – it will take addressing the challenges present at every stage of prosecution.

Horizon Institute is publishing *Seeking Justice for Rape in Somaliland* to encourage dialogue and action between the relevant justice sector actors and health professionals, to advance the progress made by the Attorney General's directive and to harness the Sexual Offences Bill should it become law. *Horizon Institute* hopes this report will assist in the promotion of a comprehensive approach to ending impunity for rape in Somaliland.

Founded in 2013, *Horizon Institute* is a Somaliland based NGO that assists government, private sector, and not-for-profit institutions create and take advantage of development opportunities. Horizon's work lies at the intersection of human rights, institution building and locally driven development. We integrate all three approaches to create effective initiatives that result in stronger and more resilient communities.

Horizon's reports and discussion papers explore issues identified through our work. They provide information and analysis intended to stimulate debate among stakeholders, the public and donors and promote government policies based on respect for human rights, strengthening institutions and encouraging self-reliance.

To learn more about Horizon's work, visit www.thehorizoninstitute.org or email info@thehorizoninstitute.org.