



When There Is No Accountability Children Suffer Horizon Institute Calls for an Independent Investigation into the Hargeisa Orphanage Rape Case

Hargeisa, Somaliland

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Publicity about the alleged rape of a young girl at Hargeisa Orphanage, who subsequently became pregnant, has recently attracted considerable publicity. *Horizon Institute* has worked extensively on this case and welcomes the public debate generated by the TV report aired on 20 June 2020 by *Horn Cable Television*.

The circumstances warrant wide-ranging public scrutiny because they highlight the impact on individuals, families and institutions when there is no accountability in public institutions. The story of what has happened to Awo and her family, and to the children accused of the rape without due process, is a sorry catalogue of injustice upon injustice, violation of the laws and Constitution of Somaliland, abdication of responsibility, misuse of power and a stark illustration of lack of accountability within a number of government institutions.

Horizon is calling for an independent investigation into this case. The young girl at the centre of it all, whose well-being and health have been disregarded by the Orphanage, deserves justice for the violence she has endured. And the young boys, who live at the Orphanage and have been arrested, need protection from a hasty investigation. At the end of the day, it is adults who have failed these children. It is adults who have not provided them with the care and protection they need. It is adults who are to blame for a young girl being raped and the detention of six young boys in a CID holding cell. This is not what children deserve.

How Horizon Institute Became Involved

Horizon first became aware of this case on 6 May 2020 when we were asked to provide legal assistance to a young woman, called Ifrah, imprisoned since 25 April 2020 in Koodbuur police station, Hargeisa. Ifrah learnt from her aunt that a young girl she knew at the Orphanage, Awo, told her she had been raped by a number of men at the school in the Orphanage and was pregnant. Tensions between the Director of the Orphanage, Asha Mohamoud Qaalib, and Ifrah's family led to a scuffle in which Ifrah was accused of breaking a mirror in the Director's car. She was initially arrested for breaking the mirror but later also accused of talking about the rape on social media. She was held at the police station for 11 days and released on 6 May for lack of evidence that she broke the mirror and that her speech amounted to criminal defamation.

Ifrah's father, Mawliid, was arrested on 6 May 2020, also accused of speaking up about the alleged rape and smashing the mirror of the Orphanage Director's car. He was held at Koodbuur police station for 18 days. He was acquitted of the defamation charge but convicted by the Hargeisa District Court of breaking the car mirror on 22 May. He was sentenced to 1 year imprisonment. His family paid to have the sentence converted into a fine and he was released on 28 May 2020.

At the time, Awo was 6 months pregnant. The Orphanage, however, had not informed her family. Awo's father, Harir Rage Abdille, said he learnt about the condition of his daughter at the end of April. The family is impoverished, and with both him and his wife facing serious health problems, Harir said he had felt compelled to turn to the Orphanage to take in Awo, her younger sister and a son.

On 3 June, *Horizon* was informed that Harir's younger daughter, Hodan, aged around 9 or 10, had been taken out of the orphanage, without the consent or knowledge of her family, and placed in a private home.

Over the subsequent weeks, *Horizon* supported Harir Rage in his efforts to gain access to his children in the Orphanage and to encourage the Criminal Investigation Department (CID) of the police force to undertake a serious, impartial and good faith investigation into the circumstances of Awo's rape and pregnancy. We also helped him as he sought the intervention of the Ministry of Education & Science, which oversees the Orphanage, and the Ministry of Employment, Social Affairs and Family (MESAF) which has a department for Child Protection.

Seeking Justice: Awo's Family Appeal to the Attorney-General's Office

On 9 May 2020, three of Awo's siblings, with whom she shares a mother, wrote to the Maroodi-Jeh Attorney-General's Office, which has jurisdiction over Hargeisa. In their letter, Farhan Abiib Habane, Filsan Abiib Habane and Faysa Abiib Habane stated that their sister, Awo, aged 14 and living at Hargeisa Orphanage, had been raped and was 6 months pregnant. They added: "This has been kept hidden to ensure no one would know, and until now no one has been held responsible. The Administration of the Orphanage either says we are investigating, or they say we have someone we can marry her off to. They also took her to a doctor to have an abortion performed. But the doctors refused, saying there was no consent from the parents or relatives as they had not been informed about an abortion."

The siblings requested the AGO to: (1) Look into this complaint so the perpetrators can be prosecuted according to the law. (2) That they, as her relatives, be allowed to visit her so they can find out about her health "given the difficult situation in which she finds herself." (3) That the Administration of the Orphanage be summoned since they bear the greatest responsibility.

Mawliid Abdi Muse, head of the Maroodi-Jeh Regional AGO, forwarded the letter to the Director of the CID asking him to "examine this complaint if it has merit." The siblings, accompanied by *Horizon* staff, delivered the letter to the CID Director the same day, 9 May. He undertook to assign an investigator and requested the team to meet with him after two days. Awo's father and *Horizon* staff returned on 12 May. They were then told by the CID Director that he had been asked by prosecutor Mawliid, to drop the complaint as "the victim

became pregnant and this is now a civil matter.” Therefore, he said, he was no longer pursuing the complaint.

On 13 May, Awo’s father wrote to the prosecutor, reiterating all the points made by her siblings and asking the Regional AGO to: (1) order the Director of the CID to conduct a thorough inquiry “so justice can be achieved”; (2) that he, as a parent be permitted to visit his child “so I can be informed about her situation given the difficult circumstances she is facing.” (3) That Awo be given justice and “that the perpetrators of this ugly crime be judged according to the law.”

Also on the 13th, *Horizon* relayed to the prosecutor the decision of the CID Director to put the complaint aside on the advice of the prosecutor himself. According to the prosecutor, he had *not* been in contact with the CID since he had given them instructions on the 9th. The prosecutor telephoned the CID Director on the spot to clarify the situation, approved Harir’s letter and wrote to the CID Director, once again asking him “to examine the complaint if it has merit.” Harir’s letter was delivered the same day to the CID Director who undertook to assign an investigator to begin the work without further delay.

The CID: No Interest in Establishing the Truth

The subsequent conduct of the CID in this case calls into question its competence, neutrality, its commitment to the rule of law and its interest in establishing the truth. Despite visits from Awo’s father, accompanied by *Horizon*, no action was taken. The Director of the CID, Faisal Hiis Elmi, claimed that a young man had “confessed” and there was no need for an inquiry. After an official related to the family intervened, the Director appointed an investigator. After a short while, the CID appointed a substitute who, for two weeks, promised much and did nothing.

On 4 June, *Horizon* submitted an official complaint to the Police Commissioner, Brigadier-General Mohamed Aden Saqadhi, about the continuous failure of the CID Director to ensure that his officers undertake a credible investigation.

On 7 June, a mere three days later, the CID Director submitted a letter to the Regional Court of Hargeisa and the Attorney-General’s Office. He requested permission to hold 5 young boys from the Orphanage on remand for 7 days, pending further inquiries. They had been arrested on 6 June. In this written request, the Director stated the ages of the boys as 12, 13, 13, 14 and 15.

On 14 June, *Horizon* wrote to the CID Director pointing out that the detention of 4 of the boys, aged between 12 and 14, was illegal and violated the Juvenile Justice Law of Somaliland as they were below the age of criminal capacity. The Director responded by telephoning the staff of *Horizon* and threatened to arrest them.

Two days later, on 16 June, *Horizon* learned the ages of the boys had been changed. They were now all said to be, on the basis of a rushed “medical examination” at Hargeisa Group Hospital, older than 15 years.

On 17 June, *Horizon* appointed a private lawyer to represent the young boys in detention. When the lawyer sought permission at the CID office to meet with them, he was denied

access, contrary to the protection in both Somaliland's Constitution and Juvenile Justice Law that detainees, especially children, be able to communicate with legal counsel freely.

On 18 June, *Horizon* delivered a letter to the Chairman of Hargeisa Regional Court, Abdi Qawdhan Abdi, saying we believed the ages of the boys, who live at the Orphanage and have no family to speak up for them, was changed after our complaint. In a meeting with a representative of *Horizon* and the lawyer, the Chairman said he had telephoned the Director of the Orphanage to ask her to take the boys back to the Orphanage on bail while their age was determined. However, the Director had not responded and the boys were returned to the CID.

Despite this bleak record, it is now the same CID which will decide the fate of these young boys and whether Awo and her family obtain justice.

Absence of Oversight and Concern: The Ministries Which Failed to Act

The Ministry responsible for the Orphanage is the Ministry of Education & Science. For this reason, Harir Rage delivered an appeal to the Ministry on 11 May 2020. In a letter entitled "Complaint Against the Administration of Hargeisa Orphanage," Harir explained about the rape, the 6-month pregnancy, the failure to inform him about the condition of his daughter or identify and apprehend the perpetrators and what he described as an attempt to hide the situation. He requested the Ministry to: (1) Summon the Administration of the Orphanage "since they bear the primary responsibility for the crime which has occurred and to question them about this crime." (2) That he be permitted, as a parent, to visit so he can learn more about the health of his daughter "given her young age and the difficult health situation in which she finds herself."

The Ministry of Education & Science did not, at any time since this letter was written on 11 May, take any action whatsoever. *Horizon* staff accompanied Harir to the Ministry on 14 May. We visited the Ministry on 5 subsequent occasions meeting with different officials and submitting and resubmitting the relevant documents. On 16 May, we were told the complaint letter had been shared with both the Minister and the Director-General who said they would nominate a committee. On the 20th, we were informed the committee had been established but had not yet met. On the 28th, we learned the committee had not produced any results and had been dissolved. On 28 May and 8 June, we visited again but the promised meetings with the Minister and the DG did not materialize, and we were not told of any action taken by the Ministry.

On 14 May, Harir also delivered a letter to the Ministry of Employment, Social Affairs and Family echoing the earlier letter to the Ministry of Education & Science, but with a difference. In the letter to MESAF, he wrote: "The victim and the Administration have told me that the number of perpetrators are 8 men. Also, that she became pregnant and the Administration of the Orphanage kept hidden that such a crime took place so no one would find out, and no one will be held accountable." In the letter to MESAF, Harir also repeated the points he had made earlier to the AGO, namely that "the Administration of the Orphanage either says we are investigating or we are going to marry her off. And that the School Administration tried to have the pregnancy aborted but that the doctors refused saying they did not have the approval of the parents and relatives."

Although MESAF does not have direct overall responsibility for the Orphanage, they have a department for Child Protection. For this reason, *Horizon* accompanied Harir on 14 May to hand over his complaint, and later visited on 17 May and 8 June to see if any action had been taken. The last communication was by telephone on 14 June

A Troubled Orphanage: Abdicating All Responsibility for the Children Involved

Disturbing facts have emerged about the suffering and trauma inflicted on Awo and her family, and on the boys currently in CID detention. These young boys are without access to a lawyer, relatives or human rights organizations and have been arrested in dubious circumstances that violate their constitutional and legal rights. The facts which are known also raise worrying questions about the Administration of the Orphanage which has shown itself to be incapable of establishing a humane and caring environment for the children under their care, and are clearly operating without accountable structures.

In interviews with two TV stations on 22 June, the Director of the Orphanage, Asha Mohamoud Qaalib, sought to rebut the criticisms, and the social media firestorm, which emerged from the *Horn Cable* program broadcast on 20 June in which Harir made damning accusations against the Orphanage. A representative of *Horizon* was also interviewed and he detailed the mistakes and missteps of the investigation to date.

Unfortunately, the Director did not provide answers to the critical questions raised by the program. She did not say what she would do to ensure the welfare of Awo. She did not say what she would do to facilitate cooperation with the investigation. She did not say what the Orphanage would do to support the boys in CID custody so they did not suffer needlessly. Instead, she sought to deflect attention by claiming the controversy was being used for political ends by the opposition party, Waddani, and by people driven by narrow clan interests. She also threatened to take legal action, including against *Horizon's* representative, and repeatedly expressed confidence in the deeply flawed investigation which is being conducted by the CID.

There may, or may not be, people willing to exploit the case for clan or political gain. That's not what matters the most. What does matter are the lives of the children blighted by the actions, and inactions, of the Administration of the Orphanage, and the lives of their families. To this end, the Director is under an obligation, given her position of parental responsibility for the children in her care, to answer the following questions.

- Why did the Orphanage never report the rape to the police?
- Why did the Administration never inform Awo's father that his young daughter had been raped and was pregnant?
- What exactly did the Administration do for the 6 months before Awo's pregnancy became public to establish the identity of the perpetrators?
- According to Awo, she was raped at the school, which is part of the Orphanage. In her interviews, the Director argued that Awo was not raped on the grounds of the Orphanage? Where exactly was she raped? And how did she find herself in this other place since she was under the supervision of the Orphanage?
- Did the Orphanage, as alleged by Awo's father, seek to have the pregnancy terminated without consulting her father or other relatives?

- Why has the Orphanage consistently refused Awo's father the opportunity to meet in private with his daughter so she can talk freely and the truth of exactly what happened, and the identity of the men who raped her, can be established?
- And on the occasion when he was allowed to speak with his daughter, why did the Director herself, and a number of the other staff, insist on being present?
- Why did the Director reject the suggestion of the Chairman of the Regional Court to allow the accused boys to return to the Orphanage while the CID conducted its enquiry?
- Has the Administration of the Orphanage made contact with the families of these boys? What support is the Orphanage providing to these young boys who are innocent until proven guilty?

Why an Independent Investigation is Urgent and Necessary

The truth of what occurred at the Orphanage, and what is currently happening to the boys in detention, will not be known until and unless there is a comprehensive, open-minded, fair and transparent investigation, led by a team independent of the Orphanage and the Ministries in question. The team should include individuals outside the government. Regarding the CID, *Horizon Institute* calls on the Police Commissioner to appoint experienced senior officers with a track record for competence and integrity to oversee the investigation.

Horizon Institute is working to advance the rule of law and human rights. For inquires, we can be contacted at info@thehorizoninstitute.org. To learn more, visit us at www.thehorizoninstitute.org and follow us on Twitter @Horizon_SL and Facebook @HorizonInstituteSomaliland.