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<https://mailchi.mp/c63c7687c1e0/imprisoning-children-before-a-court-decides-they-are-guilty?e=5a5829f08b>

“There was nothing to do in the police station. We would just stay in the cell all day long. I told the other inmates that I wanted to be a civil engineer. But [I knew] if I stayed there, I wouldn’t get that chance.”

- Yahye Mustafa Jama who was 15 years old in February 2019 when the police arrested him and accused him of attempted murder after an elderly neighbour claimed the boy injured him. He was held in custody at Qudhac Dheer Police Station for 9 months and 15 days before he was acquitted by a court of law.

The criminal justice system did not have to detain Yahye. There is a legal process, called bail, which the court could have used to send him home until a judge decided if he had committed the crime or not. A judge could have released the boy to his family and Yahye could have continued going to school.

In the report published today, **Imprisoning Children Before A Court Decides They Are Guilty**, the distress and uncertainty Yahye and his family endured

during those 9 months unfolds. The story illustrates what happens to children when they are imprisoned before and during trial. The report covers the cases of many other children who, like Yahye, were detained when they should have been treated as innocent.

Somaliland's laws protect children under the age of 18 years from being needlessly imprisoned before a judge finds them guilty. The 2007 Juvenile Justice Law permits judges to consider releasing on bail, and into the care of their parents/guardians, detained children, aged 15 to 17 years old, no matter what crime they are accused of, while the criminal justice system processes their case.

In reality, however, children are not receiving the protection of this law and are being imprisoned while their cases are heard at court. Bail for all children, regardless of the crime charged, needs to be considered by the court. Right now, children who are released during trial are the exception. But the law stipulates that it can be used in all cases of children. If they have a parent or guardian who can take responsibility for bringing them back to court, then they should be sent home. If they do not have a parent or guardian that can ensure they will come back to court, then it does not need to be granted. But it must be evaluated.

Bail helps keep children at home and in school where they need to be to grow into productive citizens. If a judge had released Yahye to his family while his trial was ongoing, he would have been able to attend school for the 9 months and 15 days it took the court to settle his case.

We all have a role to play in righting this wrong. You can take action to help increase the use of bail for children. Most people do not know what bail is and that the Juvenile Justice Law allows judges to consider bail for children, whatever the nature of the crime they are accused of. Being part of the solution can be as simple as sharing this knowledge with your family, friends, neighbours and colleagues. Tell them they can help their family to request bail if a child they know to be aged 15-17 is ever arrested. This knowledge will help protect children from the harm of being punished before a judge decides whether they are guilty or not, and spare their families the distress and expense of having a child in detention.

This report is the second of a five-part series entitled, *A Collective Failure: How Somaliland's Criminal Justice System Harms Children and What We Can All Do About It*. The series, dedicated to children accused of crimes in

Somaliland, encourages everyone to become part of building a fair justice system which respects the letter and spirit of the law.

The four other topics are: why prosecuting children 14 years old and younger is unlawful in Series One; how children are getting harsh sentences for relatively minor offences in Series Three; how the criminal justice system is functioning as the sole answer to misconduct by children in Series Four; and what those working in the criminal justice system can do now to uphold the rights of children in Series Five. Somaliland's laws provide legal protections intended to respect our rights, including those of children who are accused of crimes. It is up to us to make them a reality.

To read the report “Imprisoning Children Before a Court Decides they are Guilty” and learn how you can become part of the solution and help, [click here](#). [Horizon Institute link]

ALSO: To read Criminally Punishing Children Considered Too Young To Fully Understand Right From Wrong, the first instalment of the five-part series, click here for [English](#) and click here for [Somali](#). [Horizon Institute link]

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