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Somalia: Quash convictions against alleged rape victim and journalist

A Somali court's conviction of a woman who alleged rape by security forces, and a journalist who interviewed her, is a serious setback for ending sexual violence and protecting press freedom, five human rights and media organizations said today. The government should drop its groundless case against the journalist and the woman, and immediately order the release of the journalist, the organizations said.

The grounds for the convictions are unclear, but the court appeared to convict the two under Somalia's penal code and newly added charges under Shari'a (Islamic) law. The journalist, Abdiaziz Abdinur Ibrahim, was sentenced to one year for fabricating a false claim – even though he never published the allegation anywhere – entering the home of another man without permission, and falsely accusing a government body of committing a crime that damages state security. The woman was also sentenced to one year in prison for fabricating a rape case that damages state security. The court deferred her sentence for one year because she is breastfeeding. Abdiaziz Abdinur is detained in Mogadishu Central Prison. The court ordered the release of the woman's husband and two others for lack of evidence.

“These guilty verdicts mean that any Somali who is raped or otherwise abused by Somali security forces will think twice about reporting it to the police, and journalists will be cautious of even interviewing victims of human rights violations,” said Netsanet Belay, Africa programme director at Amnesty International. “The government should quash the case and order the immediate release of the journalist from prison.”

The groups calling for overturning the convictions and freeing the journalist are the National Union of Somali Journalists (NUSOJ), Sister Somalia, Human Rights Watch, Amnesty International and the Committee to Protect Journalists.

The verdicts stem from an interview by Abdiaziz Abdinur with the woman on January 8, 2013 about her alleged rape by government security forces in August 2012.

Abdiaziz Abdinur did not report the story to any media outlet. On January 10, he was called to report to the police Central Investigations Department and when he did, was detained without charge. He was interrogated repeatedly and his home was searched twice.

The woman initially retracted her claim after being interrogated for two days by the police without legal counsel. She later refused to recant her allegations in meetings with the attorney general. She was released, but was required to report to police daily and her husband was detained in her place. Credible local sources say he has steadfastly supported his wife's allegations. The man and woman who allegedly helped her meet with the journalist were arrested around the same time.

The police commissioner and state prosecutors alleged that Abdiaziz Abdinur was involved in a January 6 Al Jazeera news report on rape in Mogadishu's camps for displaced people, a claim that Al Jazeera has

dismissed publicly several times. Even if he had been involved, it would not constitute a criminal offense or grounds for detention.

The pre-trial and trial phases were marked by blatant violations of the defendants' due process rights.

Prior to the trial, police held Abdiaziz Abdinur for 19 days without charge and denied him access to a lawyer, a doctor and to medicine he requested on several occasions.

Senior government officials publicly said the defendants were guilty before the trial, undermining the presumption of innocence. For example, on January 18, the interior minister told the media that the "government would not tolerate reporting that incites the public or creates a situation where the national security of the country could be undermined." He also specifically alleged that Abdiaziz Abdinur had paid bribes to the woman.

The prosecutor failed to provide any evidence to justify a conviction on the criminal charges, the organizations said. The prosecutors called three witnesses, two of whom asserted they had assisted the woman after she was raped, and a nurse who had not examined the woman. A midwife testified on the first day of the trial, February 2, that she concluded that the woman was not raped after conducting a "finger test," an unscientific and degrading practice that has long been discredited because is not a credible test of whether a woman has been raped.

The judge refused to allow the defense lawyer to present witnesses to the court and he was not permitted to present any medical evidence to rebut the prosecution's assertions. The defendants will appeal the convictions, their lawyer said.

"This case has been flawed by serious violations of due process from the start," said Daniel Bekele, Africa director at Human Rights Watch. "The long pre-trial detention without charge, official smears of the defendants in the media, and the abusive police efforts to discredit and intimidate a woman who alleged rape point to a government more concerned with deflecting criticism than protecting ordinary citizens."

The verdicts will have a negative impact on media freedom and efforts to combat sexual violence in Somalia, the organizations said.

Somalia remains one of the deadliest countries in the world for journalists; 2012 was the deadliest year so far. Despite the high number of journalists killed in 2012, none of the killings have been investigated. Building a relationship of trust between the new authorities and the Somali media will be crucial, but this case has raised significant questions among the country's media about the government's commitment to a free press.

"The sentence of the journalist contradicts the government's commitments to freedom of expression and press freedom," said Mohammed Ibrahim from National Union of Somali journalists. "The government should turn their attention and resources to investigating the wave of killings of journalists in Somalia."

Sexual and gender-based violence has been a significant problem throughout the Somali conflict. Internally displaced women and girls, such as the alleged victim in this case, are particularly vulnerable to such abuse. But they are often very reluctant to report rape to authorities because they fear reprisals, lack faith in the authorities, and have little access to medical, psychosocial, and legal services. This case risks creating further mistrust, the organizations said.

"This case is forcing women in Somalia to ask, who can we trust now?" said Fartuun Abdisalaan Adan from Sister Somalia, a shelter for rape survivors in Mogadishu run by Elman Peace and Human Rights Center. "The government should focus on building trust and ensuring accountability for abuses, not intimidating vulnerable individuals."

The international community, including key donors to Somalia such as the United Kingdom, United

States, Japan and European Union should publicly call for the convictions to be quashed and for the journalist to be released immediately. Donors that support the police directly should review their programs to ensure they are not contributing to police actions that silence victims of human rights abuses.

"Somali reporters should feel secure to interview anyone alleging a human rights violation," said the Committee to Protect Journalists' East Africa consultant, Tom Rhodes. "The current climate of censorship and recrimination means it is perilous to take any step toward seeking accountability and justice."