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Somaliland: 16-year-old girl jailed in grossly unfair espionage trial should be released or re-tried

Zamzam Ahmed Dualeh, sentenced to five years' imprisonment on 15 December 2004, with the main charge being "procuring information regarding the security of the state", should be released immediately - or a re-trial, under conditions meeting international standards of fair trial, should take place as soon as possible.

Zamzam Ahmed Dualeh, aged 16, was arrested on 15 August at the Vice-President's house and has been on trial since 4 October with several adjournments. She was alleged to be obtaining secret information about the Vice-President's house on her visit to Hargeisa from Puntland, which is almost at war with Somaliland over disputed border regions. She denied the charge before the regional court in Hargeisa, the capital of Somaliland.

She was sentenced to four years' imprisonment on the main charge and an additional one year's imprisonment for making a false statement to police about her identity, making a total of five years' imprisonment. An appeal is being submitted. Her co-defendant, Omar Jama Warsame, a taxi-driver who was arrested and charged with her, was acquitted.

Zamzam Ahmed Dualeh was left to represent herself at both the start and the end of her trial. Local human rights defenders arranged for four lawyers to defend her but after they asked the judge to withdraw from the case as a result of alleged bias, the judge jailed all four defence lawyers for four years for "insulting the judge". They were freed on appeal on 11 December, when their sentences were reduced to one year's imprisonment or a fine, which they paid.

During her trial, she complained that she had been raped and tortured by police. She denied prosecution allegations that she was involved in a conspiracy with a clandestine Islamist "terrorist" group from the neighbouring Puntland Regional State of Somalia.

Unfair trial

Amnesty International considers that her trial was grossly unfair and produced no evidence to substantiate the serious charge of espionage affecting the security of the state. The judge summarily dismissed her allegations that she had been raped by six police officers from the Criminal Investigation Department (CID) officers and tortured.

She was tried as an adult, even though her identity card specifies her age as 16 years, thus a child under the internationally-recognized limit of 18 years. The court claims she is 17. The judge reportedly said that the maximum sentence of ten years' imprisonment was reduced on account of her age. After the first weeks of being held incommunicado in police custody, she has been detained in Hargeisa Central Prison (a

prison for adults), where she is allowed visits.

Two reports and testimony by government doctors, said to have assessed Zamzam Ahmed Dualeh's rape allegations, were provided to the court but not made available to defence counsel. She was reportedly pressured by various government officials and others visiting her in prison to withdraw her rape and torture allegations, on promise of release, which she refused to do. In court, she identified one of the alleged police rapists, a senior Criminal Investigation Department officer, who was giving evidence for the prosecution and claimed she had "confessed" to the alleged conspiracy.

No reply from the government

Amnesty International has received no reply to its letter to the Minister of Justice asking for urgent action on concerns about Zamzam Ahmed Dualeh's rights as a child, the judge's failure to institute formal investigations into the rape and torture allegations, and several fair trial issues, including the imprisonment of her defence lawyers.

In order to uphold the principles of child rights protection, and also to ensure that she has all necessary medical treatment, Amnesty International on 30 November, publicly requested that Zamzam Ahmed Dualeh be provisionally released, rather than detained in an adult prison for a prolonged and indefinite period.

Amnesty International requested that a fully independent and impartial inquiry be established during the trial into the rape allegations, in particular, including one or more medical professionals experienced in rape investigations, bringing in international expertise as needed. It requested that, in accordance with international standards, the findings of the inquiry be provided to the court, including defence counsel; and, if the allegations were substantiated, those alleged to be responsible for this serious crime be tried in accordance with procedures which meet international standards of fair trial, and Zamzam Ahmed Dualeh adequately compensated.

Amnesty International also expressed concerns about the failure of the court to respect international standards of fair trial, particularly the non-admissibility of statements obtained as a result of torture or other cruel, inhuman or degrading treatment; the right to legal defence representation; the right of lawyers to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; and the right to trial by a competent and impartial court.