

AMNESTY INTERNATIONAL

Public Statement

AI Index: AFR 52/004/2004 (Public)
News Service No: 308
30 November 2004

SOMALILAND: Amnesty International concerned about 16-year old girl's trial and rape allegations, and summary imprisonment of her defence lawyers

Amnesty International is deeply concerned about the current espionage trial, in the Somaliland capital of Hargeisa, of Zamzam Ahmed Dualeh, a 16-year-old school-leaver, and Omar Jama Warsame, a taxi-driver.

They were both arrested in Hargeisa on 15 August 2004 at the residence of the Vice-President, Ahmed Yusuf Yasin, and originally charged with conspiracy to assassinate him, which they denied. Zamzam Ahmed Dualeh has complained she was raped and beaten by police officers, and Omar Jama Warsame has complained he was beaten. The judge dismissed their complaints without any investigation, when they were first brought to court on 4 October.

At the latest court hearing on 24 November, the judge jailed their four defence lawyers for three years for contempt of court, after they requested him to withdraw from the case due to alleged bias.

Amnesty International is concerned that Zamzam Ahmed Dualeh was allegedly tortured by rape and beatings by police officers; that she is being detained and tried as an adult; that Omar Jama Warsame was allegedly tortured by beatings; and that their trial has already fallen far short of international standards of fairness.

Arrest and trial

Zamzam Ahmed Dualeh reportedly claims she went to the Vice-President's residence by mistake when she was looking for the residence of a Vice-Minister to whom she is related. She and her taxi-driver, Omar Jama Warsame, were arrested by security guards. Zamzam Ahmed Dualeh was transferred to the Central Police Station, and later in September to Hargeisa Central Prison, where she is currently detained. Omar Jama Warsame was released soon after arrest but re-arrested a few days later, taken to police custody, and is currently held in the Central Prison.

On 4 October, Zamzam Ahmed Dualeh and Omar Jama Warsame were brought to court in Hargeisa for trial, without legal representation. In the first hearing in court, Zamzam Ahmed Dualeh is said to have alleged that she was raped and subjected to other torture and ill-treatment by Criminal Investigation Department (CID) officers. She reportedly identified some of the six CID officers whom she claimed had raped her, who were in court as prosecution witnesses. The judge dismissed her allegations of rape and other torture, without ordering any investigation. The judge adjourned the trial to enable both defendants to have legal representation.

The court re-convened on 9 October with four defence lawyers arranged by local human rights defenders to represent them. The prosecution changed the main charge against them to espionage, which carries a maximum 10-year prison sentence. The judge refused bail and adjourned the case until after the court recess during the month of Ramadan.

The trial resumed on 24 November. CID officers who had interrogated Zamzam Ahmed Dualeh are reported to have stated that she had "confessed" to the espionage charge. The charge apparently concerned her role in an alleged conspiracy originating in Puntland, where she had recently left school. However, after verbal exchanges between the defence lawyers and the judge which led to the defence lawyers asking the judge to withdraw from the case on account of alleged bias, the judge convicted the defence lawyers of the offence of "insult to a judge during a hearing". He sentenced all four - Yusuf Ismail Ali, Fawzi Sheikh Yunis Hassan, Abdirahman Ibrahim Alin and Mohamed Said Hirsi - to three years' imprisonment. They were immediately arrested in court and taken to the Central Prison. Their case is now under appeal.

The judge adjourned the trial of Zamzam Ahmed Dualeh and Omar Jama Warsame indefinitely.

Human rights defenders in Somaliland are also themselves at risk of human rights violations on account of their criticisms of this case. During the court hearings in October, three human rights activists from Samo Talis human rights organization and the Academy for Peace and Development were detained outside the court, together with a law professor from the new Hargeisa University and a member of the Somaliland Upper House of Parliament (Gurti). They were released after some hours without being charged. A Samo Talis official was almost arrested at the 24 November court hearing, when he was apparently wrongly accused of speaking in court.

Amnesty International's appeals to the Somaliland authorities

1. The child rights issue

According to her identity document, Zamzam Ahmed Dualeh was born on 14 August 1988 and is thus 16 years old. She is therefore a child, who should, under international human rights standards, be dealt with through procedures specifically applicable to children.

Amnesty International is concerned that Zamzam Ahmed Dualeh as a child of less than 18 years of age is being detained in an adult prison and tried as an adult. International child rights standards require that she be treated in a manner which takes into account her needs and age, and that she be held separately from adults, unless it is considered in her best interest not to do so. In addition, she should be tried under a system of juvenile justice.

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

2. Rape and torture allegations

Amnesty International is concerned that the judge arbitrarily dismissed Zamzam Ahmed Dualeh's allegations of rape and other torture in custody, and also Omar Jama Warsame's allegations of torture by beatings. International standards require that their complaints of torture or ill-treatment be promptly and impartially examined by the competent authorities, and that evidence should be obtained and presented in court from medical doctors who have treated or examined them. Two medical examinations were later undertaken by the authorities. The findings of the first have not been disclosed, and the report of the second was reportedly read out in court but not provided to defence counsel.

Amnesty International is requesting that a fully independent inquiry should be established into the rape allegations, in particular, including one or more medical professionals experienced in rape investigations. The international community could be asked to assist with the relevant expertise and access to forensic facilities unavailable locally. The findings of the inquiry should be provided to the court, including

defence counsel, and if the allegations are substantiated, those alleged to be responsible for this serious crime must be brought to justice, in procedures which meet international standards of fair trial, and Zamzam Ahmed Dualeh should be adequately compensated.

3. Fair trial

Amnesty International is urgently calling on those responsible for the administration of justice in Somaliland to ensure that Zamzam Ahmed Dualeh and Omar Jama Warsame are given a fair trial by an impartial court in accordance with international standards of fairness.

Amnesty International is concerned about failures of the court up to now to respect international standards of fair trial. International standards of fair trial include the non-admissibility of statements obtained as a result of torture or other cruel, inhuman or degrading treatment; the right to legal defence representation from the time of arrest; 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.

Amnesty International is appealing for a review of the case against the four defence lawyers, and the heavy prison sentences imposed on them, when they were reportedly peacefully carrying out their professional functions.

BACKGROUND

Somaliland declared unilateral independence from the former Somali Republic when Somalia collapsed into civil wars in 1991 after the overthrow of the Siad Barre government, which had committed massive human rights violations, including war crimes, in this north-western part of the country. The Somaliland Republic has not so far achieved its objective of international recognition and refused to take part in the Somalia peace talks in Kenya or the Transitional Federal Government about to be established (which includes Puntland).

Since 1991 Somaliland has been the only part of the former Somali Republic to have achieved a broad measure of peace and stability under a civilian multi-party system, although there have been cases of human rights violations.

The Somaliland authorities have been generally welcoming to the development of several active non-governmental human rights organizations. The late President Mohamed Ibrahim Egal and his cabinet of ministers signed Amnesty International's worldwide "Get Up-Sign Up" human rights campaign commitment on the 50th anniversary of the Universal Declaration of Human Rights in 1998. The current President Dahir Riyaale Kahin also attended a reception during an Amnesty International workshop in Hargeisa in 2003 for Somali Human Rights Defenders.