

PUBLIC

AI Index: AFR 54/029/2003

1 May 2003

UA 117/03

Death Penalty / Unfair trial

SUDAN

**Al-TaHER Ahmad Hamdan (m), aged 15
Al-Doum Adam Abaker Ali (m), aged about 75
Mohammad Omer Suliman Ahmad (m), aged about 71
Twenty-three other men from Darfur state**

On 26 April, a 15-year-old boy and 25 men, including two men aged over 70, were sentenced to death in a court in Nyala, South Darfur state. Amnesty International is concerned that the death penalty has been imposed following a judicial process that falls far short of international standards for fair trials. In addition, the use of the death penalty against those under 18 is prohibited under international law.

Al-TaHER Ahmad Hamdan, Al-Doum Adam Abaker Ali, Mohammad Omer Suliman Ahmad and 23 others were found guilty of killing 35 people and injuring a further 28 in a raid on the village of Singita, South Darfur on 31 December 2002. In what a trial judge described as "barbaric and savage conduct", armed men on horseback rampaged through the village, killing people, destroying houses and looting properties. About 10 bodies were said to have been thrown into the burning houses. However, lawyers and eyewitnesses claimed that the real perpetrators came from another group and those detained were arbitrarily arrested. Evidence from prosecution witnesses was reportedly inconsistent.

A total of 38 people, including two children and one woman, were brought to trial in Nyala on 17 March in connection with the raid. One 14-year-old boy was sentenced to three years in a juvenile offenders' centre; the other 11 defendants were acquitted. The 38 accused were arrested at the beginning of January 2003 and detained incommunicado in Nyala for more than two months.

Under procedures for special courts in South Darfur, which were set up by decree of the *wali* (Governor of South Darfur) in 2001, defendants are not permitted to be defended by lawyers except by special permission. The 38 accused were all represented by three lawyers who were not allowed access to them or the case files until five days before the trial opened on 17 March. The three judges, of whom one came from the police, one from the army, and one, the presiding judge, was civilian, only allowed defence lawyers to ask each accused and each witness four questions. The prosecution were able to ask an unlimited number of questions.

The 26 condemned people now have seven days to appeal to the Special Appeal Court in Nyala. If this is unsuccessful, they may then appeal to the Supreme Court in the capital Khartoum and then to the Constitutional Court.

BACKGROUND INFORMATION

Over the past few years hundreds of civilians, mostly from agricultural ethnic groups like the Fur, Masalit and Zaghawa, have been killed or wounded, homes have been burnt and herds looted by nomadic groups. This has led to the deaths of scores of civilians.

The Sudanese Government has responded to the increasing violence by introducing special courts, which pass down heavy sentences after summary trials and do not guarantee the rights of defence. The security forces have also arrested leaders of villages and ethnic groups and others, holding them in prolonged incommunicado detention without charge or trial. In February 2003 members of non-nomadic ethnic groups announced that they had formed the "Sudan Liberation Army" (SLA), which has called for more development in the region and attacked military targets. Amnesty International urged the government to solve problems by

reconciliation, rather than by human rights violations such as arbitrary detention or displacement of villagers. In April 2003, Amnesty International called for Darfur to be included in the human rights monitoring which is to be set up in the context of peace negotiations to end a 20-year-long war in the south (at present, Darfur, in northern Sudan, would not be included in the monitoring team when it is set up later this year). Amnesty International has also called for an independent international commission of inquiry to be sent to Darfur to investigate the deteriorating situation.

The use of the death penalty against child offenders, people who were under 18 at the time of the crime, is prohibited under international law. The Geneva Conventions, the International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Rights of the Child (CRC), all have provisions exempting this age group from execution.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in Arabic or English or your own language:

- emphasising that the authorities have a right and a duty to try those accused of violent crimes but that defendants must be given fair trials;
- expressing grave concern over the fact that 26 people, including a fifteen-year-old child, al-Taher Ahmad Hamdan, and two men aged over 70, Al-Doum Adam Abaker Ali and Mohammad Omer Suliman Ahmad, were sentenced to death in a Special Court in Darfur following a trial that fell far short of international standards for fair trials;
- calling on the authorities to abide by their obligations under Article 37 of the Convention on the Rights of the Child and ensure that "No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age";
- stating that children detained should only be held in juvenile offenders institutions and only tried in juvenile court with full protection of their rights as children;
- calling on the authorities to ensure that those people sentenced are given the right to a fair trial and adequate legal defence in accordance with international standards;
- urging the authorities to abolish the use of special courts in Darfur and to ensure that all trials are conducted according to international standards of fair trial;
- stating your opposition to the death penalty which is a violation of the right to life and has been shown to have no deterrent effect.

APPEALS TO:

Lieutenant-General Omar Hassan Ahmad al-Bashir
President's Palace
PO Box 281, Khartoum, Sudan
Fax : + 24911 771651/ 783223/ 779977
Salutation: Your Excellency

Mr Ali Mohammad Osman Yassin
Minister of Justice and Attorney General
Ministry of Justice
Khartoum, Sudan
Telegrams: Justice Minister, Khartoum, Sudan
Fax: + 249 11 799031
Salutation: Dear Minister

Lieutenant-General Adam Hamid Musa
Governor of South Darfur state
c/o People's Palace
PO Box 281, Khartoum, Sudan
Telegram: Wali, Nyala, Sudan
Fax: + 249 11 771 651 / 787676 / 7832332
Salutation: Dear Sir

COPIES TO:

Dr Yasir Sid Ahmad
Advisory Council for Human Rights
PO Box 302, Khartoum, Sudan
Fax: + 249 11 779173 / 770883

and to diplomatic representatives of Sudan accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 12 June 2003.