

PUBLIC

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13 April 2004

UA 141/04 Torture/Cruel, inhuman and degrading punishment/unfair trial

**SUDAN Mahmoud Yahya Adam (m), aged 19, farmer
Yahya Al-Doum Haroun (m), aged 23, farmer
Idris Ibrahim Idris (m), aged 26, farmer
Abdel Karim Abdallah Adam (m), aged 28**

The four men named above have been sentenced to "cross amputation" (amputation of the right hand and left foot) after they were convicted of armed robbery in a trial where they had no legal representation. All claim they were tortured in police custody. They have lodged an appeal.

They were sentenced by the Specialized Criminal Court in the South Darfur state capital, Nyala, on 3 April. They had been arrested by police on 29 March in the hamlet of Jiway, Khina village, 80km east of Nyala. Abdel Karim Abdallah Adam is from Jiway, while the other men are from nearby Silaya village.

BACKGROUND INFORMATION

The Sudanese government declared a State of Emergency in the states of North, West and South Darfur, in the west of the country, in 2001, and set up Special Courts by decree. These courts deal with a wide range of offences, including armed robbery and *haraba* (banditry). They are headed by one civilian and two military judges, who do not need to have any legal qualifications. Trials in these courts are summary and death penalties have been handed down after trials which have lasted only an hour. Detainees have only very limited and insufficient rights of defence; lawyers are allowed to be present only in an unofficial capacity, as "friends" of defendants, and can offer advice but not speak on their behalf. They can only meet their clients for short periods of time, sometimes only just before the trial and without sufficient time to examine the case file. Torture is often reported, and confessions made under torture are accepted as evidence. Defendants are frequently presumed guilty rather than innocent; presumption of innocence is essential for a fair trial.

In South Darfur the Special Courts were replaced by Specialized Criminal Courts in April 2003. These have broadly similar powers, and are headed by a civilian judge. Their procedures are still summary, but unlike the Special Courts, they allow the accused to have legal representation during trials. However, lawyers claim that they are not allowed to meet their clients before trials begin.

It is only possible to appeal against sentences of death, amputation or life imprisonment. Appeals must be made within seven days to the Chief Justice of South Darfur State, whose decision is final, except on sentences of amputation and the death penalty, where a final appeal may be made to the Supreme Court. Sentences handed down by other courts may be reviewed by the Supreme Court or the Constitutional Court.

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

- expressing grave concern that Mahmoud Yahya Adam, Yahya Aldoum Haroun, Idreas Ibraheam Idreas and Abdel Kareem Abdella Adam have been sentenced to cross amputation;
- explaining that this sentence constitutes torture and cruel, inhuman and degrading punishment, which contravenes Article 7 of the International Covenant on Civil and Political Rights (ICCPR) to which Sudan is a party;
- expressing grave concern over the allegations that the men were tortured, which also violates Article 7 of the ICCPR, as well as Article 115.2 of the 1991 Sudan Penal Code;
- calling on the authorities to launch an immediate investigation into these allegations, and to ensure that any member of the Nyala police found to have committed torture is brought to justice in accordance with international standards for fair trial;

- calling on the authorities to abolish penalties such as cross amputation, which contravene international conventions they have ratified;
- calling on the Sudan government to amend the 2001 Presidential decrees that led to the creation of the Special Courts and the Specialized Criminal Courts in Darfur, to ensure that they operate according to internationally recognised standards of justice and fair trial, as outlined in Article 14 of the ICCPR.

APPEALS TO:

Mr Ali Mohamed 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

Mr Mustafa Osman Ismail
Minister of Foreign Affairs
Ministry of Foreign Affairs
PO Box 873
Khartoum, Sudan

Telegrams: Foreign Minister, Khartoum, Sudan

Fax : + 24911 779383

Salutation: Dear Minister

Major General Abdul-Rahim Muhammed Hussein
Minister of Internal Affairs
Ministry of Interior
PO Box 281
Khartoum, Sudan

Telegrams: Minister of Internal Affairs, Khartoum, Sudan

Fax: + 249 11 773046/ 776554/ 770186

Salutation: Dear Minister

Lieutenant-General Adam Hamid Musa
Governor of Southern Darfur State
c/o People's Palace
PO Box 281
Khartoum, Sudan

Telegram: Governor of Southern Darfur State

Fax: +249 11 776432/ 771651

Salutation: Dear Sir

COPIES TO:

Dr Yasir Sid Ahmed
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 25 May 2004.