

PUBLIC

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Fear of torture

22 May 2003

SUDAN

14 year old girl, convicted of adultery, (name cannot be used for legal reasons)

A fourteen year old unmarried girl, who is nine months pregnant, was sentenced to 100 lashes by a court in the town of Nyala, South Darfur, western Sudan on 17 May. If the Appeal Courts confirm her sentence, she is at risk of being immediately flogged, which constitutes a cruel, inhuman and degrading punishment.

The girl was arrested in the Al-Wihda neighbourhood of Nyala by the Public Police force, in charge of enforcing "public decency" in the government-controlled Sudan. The provincial criminal court in Nyala convicted her of adultery on the basis that she was unmarried and nine months pregnant. According to the Sudanese Penal Code, one can be convicted of adultery on the basis of the testimonies of four witnesses; if one confesses to the charge, or in the case of women, if they are unmarried and pregnant.

A 25-year old businessman, charged in connection with the case, was acquitted after insufficient evidence was found against him.

The girl was allowed legal representation and appealed the sentence on the grounds that she is pregnant and not fit to undergo such punishment. Her lawyer also objected that her age was not taken into account by the court. Appeal Courts usually review such penalties within a month.

BACKGROUND INFORMATION

The Sudanese Penal Code, which is partly based on interpretation from Islamic Law, allows for penalties such as flogging and amputations. While Amnesty International does not take a position on Islamic or any other religious law, it considers such penalties as cruel, inhuman and degrading punishments which are inconsistent with Sudan's obligations under the International Covenant on Civil and Political Rights (ICCPR). Moreover, the flogging of a child contravenes the Convention on the Rights of the Child (CRC), to which Sudan is a party. Article 37(a) of the CRC states:

"No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment."

In October 2002, in its concluding observations on the report by the Sudanese government, the Committee on the Rights of the Child recommended that Sudan *"end the imposition of corporal punishment, including flogging, amputation and other forms of cruel, inhuman and degrading treatment or punishment, on persons who may have committed crimes while under 18 (...)"*

Articles in the Sudanese Penal Code which make adultery a criminal offence are usually enforced, particularly against women. In January 2002, Abok Alfa Akok was convicted of adultery and sentenced, by a criminal court in Nyala, to death by stoning, while the man accused in the same case was acquitted. The appeal court overturned the death penalty, but sentenced her to 75 lashes instead. The sentence was carried out immediately, which prevented her lawyer from appealing the second sentence. In November 2002, 17 women from the village of Munawashi, 80 km north of Nyala, were convicted of adultery and sentenced to 100 lashes each. No men were charged in connection with these offences and the women were not allowed defence counsel. The women were flogged immediately after their conviction, without a medical report on their fitness to undergo punishment, as required under Sudanese law.

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

- urging the authorities to immediately commute the sentence of flogging against the fourteen year old pregnant girl;
- explaining that in your view such a sentence constitutes torture or cruel, inhuman and degrading punishment which contravenes international human rights treaties to which Sudan is a party including the

International Covenant on Civil and Political Rights (ICCPR) and the UN Convention on the Rights of the Child (CRC) which states that *"No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment."*;

- calling on the government to amend Sudanese law to bring it into line with international standards it has ratified.

APPEALS TO:

Mr Ali Mohamed Osman Yassin
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Khartoum, Sudan

Telegrams: Justice Minister, Khartoum, Sudan

Fax: + 249 11 799031

Salutation: Dear Minister

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

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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 774339 / 776554/ 773046 / 770186 / 777900

Salutation: Dear Minister

COPIES TO:

Dr Yasir Sid Ahmed
Advisory Council for Human Rights
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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 3 July 2003.