

PUBLIC

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UA 309/03 Fear of Amputation

SUDAN **Mohamed Hassan Hamdan (m), aged 16, member of the Ja'afra ethnic group
(an Arab group in South Darfur)**

On 14 October, sixteen-year-old Mohamed Hassan Hamdan was sentenced to "cross amputation" (amputation of the right hand and left foot) by a Special Court in the city of Nyala, South Darfur state. Such a punishment constitutes torture and contravenes international human rights standards ratified by the Sudan.

In August 2003, Mohamed Hassan Hamdan was arrested along with five adults in Rehad al-Birdi province, southwest of Nyala, on suspicion of involvement in an armed attack on a group of people in Darfur. They were charged with "armed robbery" (*haraba*) under Article 167 of the Sudanese Penal Code. All six defendants pleaded not guilty to the offence.

The trial was held in a Special Court, which does not respect international standards for fair trials. The prosecution witnesses in court apparently singled out Mohamed Hassan Hamdan as the assailant who shot one person in the leg, and as a result he was the only defendant to be convicted. The defence lawyer was absent during the last session of the trial when Mohamed Hassan Hamdan was convicted. His lawyer has lodged an appeal with Darfur's Appeal Court. If his appeal is rejected, he has the right of appeal to the Supreme Court in the capital Khartoum; if upheld, his sentence could then be carried out at any time. Mohamed Hassan Hamdan is now being held in Nyala Prison awaiting the result of his appeals.

BACKGROUND INFORMATION

In Darfur over the past years security and respect for human rights has been undermined by an increased number of attacks, including attacks by nomadic Arab groups on sedentary groups.

The Special Courts in Darfur were set up in 2001, following a declaration of a state of emergency in the region. Special Courts try offences related to armed robbery, banditry, the illegal possession of arms and killings. They hand down harsh sentences after summary and unfair trials which do not guarantee the rights of defence and have led to a sharp increase in death sentences and other cruel, inhuman and degrading treatment or punishment.

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, such punishment inflicted on a child contravenes the United Nations 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 (...)*"

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

- expressing concern that sixteen-year-old Mohamed Hassan Hamdan was sentenced to cross-amputation;

- stressing that in your view amputation 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."*;
- appealing for the sentence of cross-amputation to be commuted immediately;
- calling for Mohamed Hassan Hamdan to be re-tried by a court which respects all international standards for fair trial;
- appealing for the law in Sudan to be amended to bring it into line with international human rights standards ratified by the Sudan.

APPEALS TO:

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

Telegram: Governor of South Darfur state, Khartoum, Sudan
Fax: + 249 11 779977/ 771025
Salutation: Dear Lieutenant-General

Mr Ali Osman Mohamed Taha
 First Vice-President
 People's Palace
 PO Box 281, Khartoum, Sudan

Telegram: First Vice-President, Khartoum, Sudan
Fax: + 249 11 779977 / 771025
Salutation: Your Excellency

Mr Ali Mohamed Osman Yassin
 Minister of Justice and Attorney General
 Ministry of Justice, Khartoum, Sudan

Telegram: Justice Minister, Khartoum, Sudan
Fax: + 249 11 770883
Salutation: Dear Minister

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

Telegram: Foreign Minister, Khartoum, Sudan
Fax: + 249 11 779383
Salutation: Dear Minister

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 11 December 2003.