

PUBLIC

AI Index: AFR 54/033/2004

UA 123/04

Fear of Amputation / unfair trial

23 March 2004

SUDAN

Hassan Haroun Adam (m), aged 35 - farmer

On 20 March, Hassan Haroun Adam was sentenced to "cross-amputation" (amputation of the right hand and left foot) by a Specialized Criminal Court in Nyala, South Darfur, Western Sudan. Such a punishment constitutes torture and cruel, inhuman and degrading treatment or punishment, in contravention of international human rights standards ratified by Sudan.

Hassan Haroun Adam pleaded not guilty of armed robbery, but was convicted under Article 168 of the Penal Code. He was convicted on the evidence of two witnesses, who were not cross examined as Hassan Haroun Adam did not have a defence lawyer. The court has appointed a lawyer for him, who is preparing an appeal.

Hassan Haroun Adam was arrested on 21 November 2003 in Nyala along with Ibrahim Ishag, following the armed robbery of a lorry outside Nyala, in which one person was shot dead and two people injured. Hassan Haroun Adam and Ibrahim Ishag were arrested and taken to South Nyala police station where they were reportedly severely tortured and denied access to their families or to a lawyer. They were then transferred to Nyala prison on 27 November 2003.

Ibrahim Ishag was sentenced to 3 years imprisonment in March 2004.

BACKGROUND INFORMATION

In the states of North, West and South Darfur, in western Sudan, Special Courts were set up by decrees in 2001 following a declaration of a State of Emergency in the region. The Special Courts are headed by one civilian and two military judges who do not need to have any legal qualifications.

Whilst Special Courts still operate in North and West Darfur, Special Courts in South Darfur were replaced by Specialized Criminal Courts in April 2003, with broadly similar jurisdiction. The jurisdiction of the Special Courts and the Specialized Criminal Courts in Darfur covers a wide range of offences including armed robbery and *haraba* (banditry). Under Article 5(g) of Decree No. 21, "*lawyers have no right to appear before the courts to represent the accused. The friend of a defendant can appear instead to provide help before the court*". Sentences over five years' imprisonment can be appealed within seven days to the Darfur Court of Appeal, whose verdict is final, except in cases involving amputation and the death penalty, which may be appealed to the Supreme Court in Khartoum and the Constitutional Court, which has sometimes overturned cases because of unfairness.

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

- expressing grave concern over the imposition of the sentence of cross-amputation on Hassan Haroun Adam;
- 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;
- calling for the sentence of cross-amputation to be set aside immediately;
- expressing grave concern over the allegations of torture of Hassan Haroun Adam and Ibrahim Ishag, which violates Article 7 of the International Covenant on Civil and Political Rights (ICCPR), to which Sudan is a party, as well as Article 115.2 of the 1991 Sudan Penal Code;
- calling on the authorities to launch an immediate investigation into the allegations of torture of Hassan Haroun Adam and Ibrahim Ishag and to ensure that any member of the Nyala police found to have committed torture is brought to justice in accordance with international standards of fair trial;
- 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 International Covenant on Civil and Political Rights (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 4 May 2004.