

PUBLIC

AI Index: AFR 54/015/2004

16 February 2004

Further Information on UA 145/03 (AFR 54/035/2003, 22 May 2003) - Fear of torture

SUDAN

Mahasin Abaker Fadul (f), aged around 15

Mahasin Abaker Fadul stands at immediate risk of being flogged as punishment for having had illegal sexual intercourse (*zina*). According to information recently received by Amnesty International, her last chance for appeal has failed.

Mahasin Abaker Fadul was 14 years old and nine months pregnant when a sentence of 100 lashes was imposed on her by a court in Nyala, South Darfur, western Sudan, on 17 May 2003.

According to the Sudanese Penal Code, one can be convicted of illegal sexual intercourse on the testimonies of four witnesses; or if one confesses to the charge; or, in the case of a woman, if she is unmarried and pregnant. A 25-year-old businessman, charged in connection with the case, was acquitted in 2003 after insufficient evidence was found against him.

Mahasin Abaker Fadul was allowed legal representation and appealed against the sentence on the grounds that she was pregnant and not fit to undergo such punishment. Her lawyer also objected that her age was not taken into account by the court. However, on 15 October 2003, the supreme court In EL Obeid confirmed her sentence. She has no further avenues of appeal.

BACKGROUND INFORMATION

The Sudanese Penal Code, which is partly based on interpretation of 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 to be 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 (...)*"

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

- urging the authorities to immediately annul the sentence of flogging passed on Mahasin Abaker Fadul;
- 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 the international standards it has ratified.

APPEALS TO: (Fax numbers may be very difficult to get through to. It is important to copy appeals to the Embassy of Sudan in your country, who are obliged to pass them on to the authorities)

Mr Ali Osman Mohammad Taha
First Vice-President
People's Palace, PO Box 281, Khartoum, Sudan
Telegram: First Vice-President, Khartoum, Sudan
Fax: + 249 11 771025
Salutation: Your Excellency

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 774339 / 776554/ 773046 / 770186 / 777900
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 29 March 2004.