Mandates of the the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the 
Independent Expert on the situation of human rights in the Sudan

REFERENCE:
UA SDN 3/2019

16 August 2019

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on 
extrajudicial, summary or arbitrary executions; and Independent Expert on the situation 
of human rights in the Sudan, pursuant to Human Rights Council resolutions 35/15 and 
39/22.

In this connection, we would like to bring to the attention of your Excellency’s 
Government information we have received concerning the reportedly imminent execution 
of Mr. Abbas Mohammed Nur Musa, who was convicted of murder and sentenced to 
death, despite being 15 years old at the time of the commission of the crime.

According to the information received:

On 27 August 2013, at the age of 15, Mr. Abbas Mohammed Nur Musa stabbed a 
17-year-old boy to death. He was arrested and placed in detention at the Aljraif 
East juvenile detention centre. During his detention, Mr. Musa was sentenced to 
five years in prison, and to pay blood money (Diyya) valued at 40,000 Sudanese 
pounds for murder. When he turned 18, he was transferred to the Madani prison.

The prosecutor appealed the sentence seeking the death penalty. The Court of 
Appeal convicted the accused of murder and sentenced him to death.

Against this judgement, the defence filed an appeal with the Higher Court. The 
Higher Court quashed the decision of the Court of Appeal, annulled the death 
sentence and sent the case back to the trial court.

The trial court, however, again sentenced Mr. Musa to death based on an 
ambiguous determination of childhood, such as “attainment of puberty”, in 
accordance with Article 3 of Sudan’s Criminal Act of 1991.

Mr. Musa’s lawyers appealed the new sentence to the Constitutional Court. On 20 
May 2019, the Constitutional Court confirmed the death sentence.

We express grave concern that the death penalty may be carried out against 
Mr. Abbas Mohammed Nur Musa, who was a child at the time of the commission of the 
crime, in violation of the international human rights treaties to which Sudan is a party.
While we do not wish to prejudge the accuracy of these allegations, the above information seems to indicate a prima facie violation of the right of every individual to life and security and not to be arbitrarily deprived of his life, as set forth in Article 6 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Sudan on 18 March 1986, and Article 3 of the Universal Declaration of Human Rights (UDHR).

In particular, we wish to emphasize that any judgment imposing the death sentence, as well as the execution of a juvenile offender is incompatible with the international legal obligations undertaken by your Excellency’s Government under the various instruments and unlawful. Article 6 (5) of the ICCPR, and Article 37 (a) of the Convention on the Rights of the Child, ratified by Sudan on 3 August 1990, expressly prohibit the imposition of the death penalty for offences committed by persons below 18 years of age.

The Committee on the Rights of the Child, in its General Comment No. 10 on children’s rights in juvenile justice, has interpreted Article 37 (a) of CRC to mean that the death penalty may not be imposed for a crime committed by a person under 18 regardless of his/her age at the time of the trial or sentencing or of the execution of the sanction.

In view of the urgency of the matter, and of the irreversibility of the punishment of the death penalty, we call upon your Excellency’s Government to immediately halt any plan and/or steps toward the execution of Mr. Abbas Mohammed Nur Musa, which, on the basis of the information made available to me would violate international human rights law and standards, and thus constitute an arbitrary execution.

Furthermore, I urge your Excellency’s Government to ensure that the death sentence against Mr. Abbas Mohammed Nur Musa is annulled and that he is re-tried in full compliance with international human rights law and standards.

At the same time, I also urge your Excellency’s Government to ensure that the death penalty is not carried out on any child and to replace any death sentence already passed on persons under 18 with an appropriate alternative sanction.

We also call on your Excellency’s Government to ensure that all relevant national legislation is in accordance with international norms and standards; and we encourage national authorities to establish a moratorium on executions with a view to abolish the death penalty.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.
In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency’s Government to safeguard the rights of the above-mentioned person in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above mentioned allegations.

2. Please provide the details of the proceedings against Mr. Abbas Mohammed Nur Musa, and the legal basis and evidence used in court to sentence him to death. In addition, please provide specific information regarding the application in this case of the provisions of the Juvenile Sentencing Guidelines relating to alternative punishments to the death penalty.

3. Please provide detailed information on the laws governing the use of the death penalty, particularly with regard to children, and how are they compatible with the prohibition of the juvenile death penalty set forth in international law.

4. Please provide updated detailed information on all children sentenced to death and/or executed in Sudan in 2017, 2018 and 2019 and those who presently remain on death row for crimes committed under the age of 18.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and, in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

We intend to publicly express my concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency’s Government to clarify the issues in question.

This communication and any response received from your Excellency’s Government will be made public via the communications reporting website within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.
Please accept, Excellency, the assurances of our highest consideration.

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

Aristide Nononsi
Independent Expert on the situation of human rights in the Sudan