



Submission to the Report of the UN Secretary General on the Moratorium on the Use of the Death Penalty

This is a joint submission by the International Juvenile Justice Observatory (IJJO), Penal Reform International (PRI) and the Child Rights International Network (CRIN) on children's rights and the situation of the death penalty.

The **IJJO** aims to promote a system of juvenile justice that respects the rights of children in line with international human rights standards. They are campaigning for children's right to defence and independent legal representation.

PRI's activities focus on diverting children from the adult justice system, promoting alternative sanctions to imprisonment and, where imprisonment is used, improving conditions of detention.

CRIN is campaigning for the abolition of inhuman sentencing of children, defined to include the death penalty, corporal punishment and life imprisonment.

We want to emphasise that while, for the purpose of this campaign, CRIN is calling for the abolition of the juvenile death penalty, we believe that the death penalty should be abolished for all individuals, regardless of their age.

This submission will focus on the death penalty for children but within the broader context of children's rights. In particular, while we welcome the increasing number of countries that are putting a moratorium on the death penalty, we are concerned that this is leading to an increase in sentences of life imprisonment. Life imprisonment is also a form of cruel and inhuman punishment.

We believe that it is important for the Secretary-General to address the death penalty within the wider context of sentencing of children as per the SG's Study on Violence against Children in which the SG recommends that death penalties be suspended and States should take: "appropriate legal measures to convert them into penalties that are in conformity with international human rights standards."¹

Furthermore, children are often denied the right to defence and legal representation, yet this is a fundamental right, for adults and children. Children left alone without any independent legal counsel are not only deprived of their voice, but are also subject to numerous abuses as they are often intimidated and not aware of their rights.

¹ UN GA Report of the independent expert for the United Nations Study on Violence against Children. 29 August 2006. A/61/299

Children should be kept outside the criminal justice system and the focus should be exclusively on rehabilitation. Sentencing a child to any form of violent sentencing, including imprisonment for long periods of time, is not the appropriate response. Article 37 of the CRC explicitly requires deprivation of liberty to be used only as last resort and for the shortest appropriate period of time (article 37 (b)).

The CRC requires that the best interests of the child be a primary consideration “in all actions concerning children”, including those taken by courts of law (article 3 (1)), and that States ensure “to the maximum extent possible the survival and development of the child” (article 6).

States should therefore review all their sentencing practices with regards to children and ensure they are in line with the UN Convention on the Rights of the Child and other human rights standards.

Status of the juvenile death penalty

Our research suggests that in at least seven States, child offenders can lawfully be sentenced to death by lethal injection, hanging, shooting or stoning; more still have the death penalty on their statutes.

Fifteen countries still have capital punishment as a sentence for juvenile offenders,² although only a handful are known to have executed a juvenile in recent years. However, as long as the sentence remains a possibility in the Statute of a country, children run the risk of being executed should a situation in a given country change.

From the death penalty to life imprisonment: a worrying trend

CRIN is concerned by the trend that many countries that abolish the death penalty for minors commute sentences to life imprisonment, which is also a form of cruel and inhuman punishment. It violates articles 37 (a) of the Convention on the Rights of the Child (CRC), article 5 of the Universal Declaration of Human Rights, article 7 of the International Covenant on Civil and Political Rights and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. According to our research, of 60 countries reviewed that have abolished the death penalty, 22 have instituted life imprisonment or detention at the pleasure of Her Majesty/Governor general/President/State. All of them are members of the Commonwealth.

Developments from December 2010 to May 2012

In 2011, Iran Human Rights reported the execution of four juveniles in **Iran**,³ while Amnesty International puts the number at three confirmed executions, with unconfirmed reports

2 Bangladesh, India, Iran, Lao People's Democratic Republic, Malaysia, Maldives, Mauritania, Nigeria, Pakistan, Qatar, Saudi Arabia, Somalia, Tonga, United Arab Emirates and Yemen.

3 Iran Human Rights, "Death Penalty in Iran 2011"(March 2012)

reports of unconfirmed information of a further four.⁴ **Saudi Arabia** also reported the execution of one juvenile in 2011.

Sentences of capital punishment were reportedly handed down to children in **Iran**, and in **Mauritania** three people were sentenced to death for offences committed as juveniles, but this was commuted to a sentence of 12 years' imprisonment on appeal.⁵

In **Sudan** in December 2011, the Special Court upheld a death sentence for two children convicted of a carjacking.⁶ On May 31, 2012 Human Rights Watch reported that a young woman believed to be under 18 has been sentenced to death by stoning for adultery.⁷

Meanwhile, in **Nigeria** at least 20 people remained on death row for offences committed as children in October 2011, according to Amnesty International. Amnesty is also aware of people on death row in **Saudi Arabia** and **Yemen** for offences committed as children.⁸

In **Yemen**, where the death penalty for minors is prohibited, the Attorney General rejected the appeals of two people convicted of murder, one of whom was executed in January 2012; the other remains at risk of execution.⁹ The pair claimed to be under 18, but lacked birth certificates to prove this. In many countries, the difficulty of age determination means children continue to be sentenced to death even where the death penalty is not authorised as a sentence for minors.

In a worrying development in **Egypt**, in April 2011 the Supreme Council of the Armed Forces announced the expansion of the death penalty for convicted rapists in cases where the victim is under 18, including for offenders under 18.¹⁰ In May 2011, a 17-year-old was among four people sentenced to death by the Supreme Military Court for the kidnapping and sexual assault of a young woman.¹¹

4 Amnesty International, "Death Sentences and Executions in 2011 "(May 2012), p. 38

5 *ibid* (p. 51)

6 African Centre for Peace and Justice Studies, "Special Court in Darfur upholds verdict sentencing seven to death and crucifixion"(29 November 2011)

7 Human Rights Watch, "Young Women Sentenced to Death by Stoning"(31 May 2012)

8 Amnesty International, *ibid* (p. 4)

9 CRIN, "Campaign against Inhuman Sentencing of Children in Yemen": <http://www.crin.org/violence/search/closeup.asp?infoID=25132>

10 AMAN, "Death penalty for harassment and child sexual assault" (8 April 2011)

11 Egyptian Initiative for Personal Rights, "Supreme Military Court sentences minor to death...EIPR urges immediate suspension of the sentence and a full review of cases heard by the military judiciary" (17 May 2011)