

Members of the National Juvenile Justice Network (NJJN) Pakistan:

- 1- AGHS
- 2- Aurat Foundation, Peshawar
- 3- Azad Foundation
- 4- CLAAS- Centre for Legal Aid, Assistance and Settlement
- 5- Child Rights Legal Center (CRLC)
- 6- Human Rights Commission of Pakistan (HRCP)- Islamabad
- 7- Legal Aid Officer
- 8- Lawyers for Human Rights and Legal Aid (LHRLA)
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- 11- Sanjog
- 12- Society for Empowering Human Resources (SEHER)
- 13- Society for Human Rights and Prisoners Aid (SHARP)
- 14- Society for the Protection of the Rights of the Child (SPARC)
- 15- Plan Pakistan
- 16- Save the Children Sweden

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Campaign against INHUMAN AND DEGRADING Sentences for Child Offenders



National Juvenile Justice Network

Background: Inhuman sentencing for child offenders in Pakistan

The Juvenile Justice System Ordinance (JJSO) 2000 prohibits punishing a child offender as per Section 12. Section 11 of the JJSO states that upon conclusion of the trial or inquiry, the child offender will be released on probation or sent to a Borstal Institute until s/he attains 18 years of age; it does not advise the Court to punish or sentence child rather to rehabilitate the child. Unfortunately, however, the pillars of the criminal justice system are putting children through inhuman and degrading punishments for various reasons; foremost among those are the overriding powers of other laws over the JJSO and the lack of implementation of the child rights provisions in the JJSO, the Khyber Pakhtunkhwa Child Protection and Welfare Act 2010 and the Sindh Children Act 1955.

Child offenders are being tried in special Courts under the Anti-Terrorism Act 1997 and the Control of Narcotic Substances Act 1997 both of which provide for the death penalty. The Jail Manual also authorizes jail authorities to apply stringent punishment for disciplining juveniles. Although the JJSO has been extended to FATA, the Rules of the JJSO have not been framed nor has a system been placed to implement the JJSO. The region is being run under the Frontier Crimes Regulation (FCR) 1901 which contains a dangerous provision in Section 21 which allows the seizure/ confiscation of property and the arrest and detention of an individual without due process, and is known as the 'collective responsibility clause'. Section 6 of the FCR, allows the sentence of whipping even though the practice was abolished by Pakistan's Abolition of the Punishment of Whipping Act 1996; and Section 23 places all villagers responsible for a murder, if a dead body is found in their village.

Not a single exclusive Juvenile Court has been established as provided under the JJSO and till date children's cases are not being tried under the manner prescribed by the law. Consequently, children in far flung areas are awarded death sentences and those whose cases undergo challenge in the High Courts, pass through a horrible incarceration process; they are placed into isolated death cells.

The NJJN has learnt from their close monitoring that before the conclusion of the trial, children are detained in police lock-ups with adults for many days, badly tortured to confess to the offences and produced before Magistrates handcuffed. In jails they are also tortured by prison officials.

Pakistan is a party to the UN Convention on the Rights of the Child (CRC), Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the International Covenant on Civil and Political Rights (ICCPR) where Article 37 of the CRC, Article 7 of the ICCPR and Article 2 of the CAT state that no person including a child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

CRIN, DCI-IS and the NJJN feel that there is a need for an effective advocacy campaign to motivate the government to review the criminal justice system, mainly laws and practices under which children are made subject to torture or other cruel, inhuman or degrading treatment or punishment which includes life imprisonment and rigorous imprisonment. For this purpose CRIN, DCI-IS and the NJJN initiated a joint campaign on **May 17, 2011**.

Please join hands with CRIN, DCI-IS, and the NJJN Pakistan to fight against inhuman sentences for child offenders and to ensure the protection of the children in Pakistan by signing and sending the attached letter to the Prime Minister of Pakistan to promote and protect the rights of those children who come into conflict with the law.

HE Mr. Yousaf Raza Gillani,
The Prime Minister of Pakistan,
The Prime Minister House, Islamabad.

Your Excellency,

Child Rights Information Network (CRIN), Defence for Children International-International Secretariat (DCI-IS) and the National Juveniles Justice Network (NJJN) Pakistan are afraid to share with you that the institutions for the administration of juvenile justice in Pakistan are practicing inhuman and degrading sentences against juveniles and/ or alleged offenders.

There is a problem in the practice of agencies responsible for the administration of juvenile justice; sentences of corporal punishment, life imprisonment and the death penalty seem to be legal under certain circumstances because of the provisions in some laws. Though the Juvenile Justice System Ordinance (JJSO) is silent about life imprisonment and rigorous imprisonment, however Section 12 prohibits punishing a child offender. Section 11 of the JJSO states that upon conclusion of the trial or inquiry, the child offender will be released on probation or sent to a Borstal Institute until s/he attains 18 years of age; it does not advise the Court to punish the child. But those other laws which have provisions of punishment for children are:

Under the 'collective responsibility clause' of the Frontier Crimes Regulation 1901 in FATA; Section 89 of the Pakistan Penal Code 1860, the Anti-Terrorism Act 1997, the Control of Narcotic Substances Act 1997 and the Hudood Ordinances 1979 children are awarded rigorous imprisonment and put through torturous incarceration processes. There is also the death penalty which hangs above their heads; the Jail Manual also authorizes jail authorities to apply stringent provisions of punishment for disciplining juveniles.

Children in far flung areas are awarded death sentences by the Courts. The NJJN has learnt from its close monitoring that before trials conclude, children are detained in police lock-ups with adults, for many days, where they are tortured to confess to offences and then produced in handcuffs before the Magistrates.

The UN Committee on the Rights of the Child in its Concluding Observations and Recommendations on Pakistan's Third and Fourth Periodic Report 'expressed deep regrets at reports of torture and ill-treatment of children by police officers in detention facilities and other State institutions. The Committee is concerned at the high percentage of women and girls in jails awaiting trials'.

CRIN, DCI-IS and the NJJN believe that your government may consider reviewing laws and the barbaric practices of officials which are against the promotion and protection of child rights and save children from becoming hardened criminals due to going through the incarceration process.

We hope that under your able leadership, achievements will be made towards the promotion and protection of the rights of children in Pakistan by taking 'all necessary measures to prevent children from being subjected to torture or any other cruel, inhuman or degrading treatment or punishment in all circumstances'.

Name _____

Address: _____

Signature _____

