

INHUMAN SENTENCING

LIFE IMPRISONMENT OF CHILDREN IN THE COMMONWEALTH



CRIN

CHILD RIGHTS INTERNATIONAL NETWORK

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CRIN envisions a world in which every child enjoys all of the human rights promised by the United Nations, regional organisations, and national governments alike.

Guided by our passion for social and legal change, CRIN is building a global network for children's rights. We press for rights, not charity, and advocate for a genuine systemic shift in how governments and societies view children.

Our inspiration is the United Nations Convention on the Rights of the Child (CRC), which we use to bring children's rights to the top of the international agenda. We launch advocacy campaigns, lead international children's rights coalitions, and strive to make existing human rights enforcement mechanisms accessible for all.

More than 2,100 organisations in 150 countries rely on CRIN's publications, research and information.

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Executive Summary

This report takes the form of a review of the laws of the Commonwealth States with regards to life imprisonment of children; that is all persons under 18 years of age. Where official information is available on how many children are affected by the relevant sentences, this too has been included. For the purposes of this report “life imprisonment” has been defined to include a variety of types of sentence under which it is possible for a person to be legally detained for the rest of his or her natural life for an offence committed whilst under the age of 18 years. Such sentences include:

Life imprisonment without parole, in which, at the time of sentencing, the court orders that the convicted person will never be eligible for release. This sentence means that short of a pardon, commutation or other form of leniency after sentencing, a person serving such a term will spend the rest of his or her natural life in detention.

Life imprisonment with the possibility of parole, simply referred to as life imprisonment throughout this report, definitions of which vary in their precise form, though they usually require the setting of a minimum term which must be served in detention before a person becomes eligible for release. If a person serving a life sentence is released, his or her release is usually subject to restrictions and controls, and he or she will remain liable to be detained upon breaching those restrictions.

Detention at the pleasure of the executive or the courts, strictly speaking indeterminate sentences, in that it is possible that a person will be unconditionally discharged without restrictions. However, such sentences have been included within the definition of life imprisonment here, as in law they allow for a person to be detained for the rest of his or her natural life.

Indefinite detention sentences, are those other than detention at the pleasure of the executive or the courts which allow for an undefined period of detention that may be extended for the rest of a person's life.

Overview of the findings

This report has found that 45 out of the 54 Commonwealth States provide for one or more of the types of life imprisonment listed above:

Antigua and Barbuda, Australia, the Bahamas, Barbados, Bangladesh, Belize, Botswana, Brunei Darussalam, Canada, Cyprus, Dominica, Fiji, Grenada, Guyana, India (Jammu and Kashmir), Jamaica, Kenya, Kiribati, Malawi, Malaysia, the Maldives, Mauritius, Nauru, Namibia, New Zealand, Nigeria, Pakistan, St Kitts and Nevis, St Lucia, St Vincent and the Grenadines, Samoa, the Seychelles, Sierra Leone, Singapore, the Solomon Islands, Sri Lanka, Swaziland, Tonga, Trinidad and Tobago, Tuvalu, Uganda, the United Kingdom, United Republic of Tanzania, Vanuatu, Zambia

The report also notes a trend in States that have implemented some form of

life imprisonment for children when they abolished the death penalty, 27 States have done so:

Antigua and Barbuda, the Bahamas, Barbados, Belize, Botswana, Brunei Darussalam, Cyprus, Dominica, Fiji, Grenada, Guyana, Jamaica, Kenya, Malawi, Malaysia, Nigeria, St Kitts and Nevis, St Lucia, St Vincent and the Grenadines, Sierra Leone, Singapore, Sri Lanka, Swaziland, Tonga, Trinidad and Tobago, United Kingdom (Northern Ireland), United Republic of Tanzania

26 States surveyed have retained a form of detention at the pleasure of the executive or the courts:

Antigua and Barbuda, the Bahamas, Barbados, Botswana, Brunei Darussalam, Cyprus, Dominica, Fiji, Grenada, Guyana, Jamaica, Kenya, Malawi, Malaysia, Mauritius, Nigeria, St Kitts and Nevis, Sierra Leone, Singapore, the Solomon Islands, Sri Lanka, Swaziland, Tonga, Trinidad and Tobago, the United Kingdom, the United Republic of Tanzania

Only 5 States have expressly outlawed all forms of life imprisonment:

Cameroon, Ghana, Mozambique, Rwanda, South Africa

For 4 States CRIN has been unable to verify the relevant laws:

Gambia, Lesotho, Malta, Papua New Guinea

Please note: All information contained in this reports is provided for educational and informational purposes only and should not be construed as legal advice.

Introduction

In 2010 CRIN, together with other partners, launched a campaign for the prohibition of inhuman sentencing of children- defined to include sentences of death, life imprisonment and corporal punishment.

This report focusses on sentences of life imprisonment in the Commonwealth for three reasons: first, the prevalence of life imprisonment of children is particularly high among the Commonwealth States; second, the shared legal history of the Commonwealth has resulted in common practices; and third, to highlight a form of inhuman sentencing of children that has been hidden by the focus on the death penalty as the most extreme punishment.

Life imprisonment sentences cover a diverse range of practices, from the most severe form of life imprisonment without parole (LWOP), in which a person is sentenced to die in prison so long as their sentence stands, to more indeterminate sentences in which at the time of sentencing it is not clear how long the sentenced person will spend in prison. What all of these sentences have in common, however, is that at the time the sentence is passed, a person is liable to be detained for the rest of his or her natural life.

The Convention on the Rights of the Child (CRC) prohibits life imprisonment without the possibility of parole, a practice which outside the United States has now become very rare. The US Supreme court case of *Miller v.*

Alabama is set to make the sentence now rarer, since its prohibition of mandatory life sentence without the possibility of parole for persons under 18 will lead to reviews for those who have been so sentenced. Belize too has outlawed life sentences without the possibility of parole on the basis that they are inconsistent with its constitutional prohibition on torture, inhuman or degrading punishment. Similarly the European Court of Human Rights has ruled that “irreducible life sentences”, in which in law and practice a sentenced person faces no real prospect of release, are incompatible with the European Convention on Human Rights.

This focus on the worst forms of the sentence, however, has disguised the widespread practice of less severe or overt forms of life imprisonment. Of the 54 States within the Commonwealth, CRIN's research has found that 45 still allow for life imprisonment of persons who were under 18 at the time they committed the offence. Any sentence which could lead to a child spending the rest of his or her life in prison, plainly violates the CRC, which prohibits “torture or other cruel, inhuman or degrading treatment or punishment” and requires that children in conflict with the law are treated “in a manner consistent with the promotion of the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society”.

Progress has also been made in outlawing the death penalty for children, a practice now very rare

internationally, but in its place many states have introduced compulsory life sentences, another form of cruel or inhuman punishment. 27 Commonwealth States, expressly instituted measures to ensure that children who would otherwise have been sentenced to death would be eligible instead to die in prison.

The growth of indeterminate sentences has blurred the borders between life sentences and other terms of imprisonment. 26 Commonwealth States permit sentences of detention at the pleasure of the courts or the executive, a sentence which allows for the indefinite lawful detention of a person without the certainty that can come with traditional life sentence. Studies into this practice in the United Kingdom have identified an increase in mental health problems for those subject to indeterminate sentences compared to those serving traditional terms of life, indicating the harm that can be inflicted by the uncertainty of apparently lesser sentences.

Only five Commonwealth States have explicitly prohibited life imprisonment of children; these examples show how juvenile justice need not rely on harsh punitive sentences to combat the problems of youth crime. When the Convention on the Rights of the Child was drafted more than two decades ago, NGOs pressed for the prohibition of life imprisonment outright, and were forced to settle for a prohibition on LWOP in the name of consensus. CRIN does not believe, however, that the focus should be on eliminating the worst of the worst practices, or establishing average practices in juvenile justice, but on establishing a

system of justice that fully respects the rights of children.

CRIN is concerned that States are handing out lengthy sentences to children, yet international condemnation is limited to life imprisonment without parole and the death penalty. It is essential- indeed long overdue- to widen the focus and challenge any sentence under which, at the time it is passed, a child is liable to be detained for the rest of his or her natural life. CRIN, with other commentators, believes that the only justification for the detention of a child should be that the child has been assessed as posing a serious risk to the public safety. Courts should only be able to authorise a short maximum period of detention after which the presumption of release from detention would place the onus on the state to prove that considerations of public safety justify another short period of detention. The same principles should apply to pre-trial detention.

This briefing serves to highlight the prevalence and plurality of laws permitting life imprisonment of children, laws that potentially condemn children to die in prison, and hopes to lead to reviews of the sentencing of children to ensure that they are fully compliant with the CRC and other instruments. CRIN believes that life imprisonment, of any type, does not have a place in juvenile justice.

CRIN's campaign to end inhuman sentencing of children is challenging specific grave and systematic violations of children's rights. In challenging these particular violations, we must emphasise that we are not in any way reducing our condemnation of all violations of children's rights and insistence on full implementation of the Convention on the Rights of the Child and other human rights instruments. States' obligations in the field of juvenile justice go far beyond ending the availability of these inhuman sentences for child offenders; for example to develop separate, fully rights-compliant juvenile justice systems with a single focus on rehabilitation and reintegration, not retribution; to ensure that within these systems detention of children should only be used as a last resort, for the shortest possible time and only for reasons of public safety. And States are required to move immediately not only to stop whipping and flogging children as sentences of the courts, but to prohibit and eliminate all corporal punishment of children in all settings.

This briefing follows our paper **Stop Making Children Criminals** (http://www.crin.org/docs/Stop_Making_Children_Criminals.pdf) which called for a debate on juvenile justice that moves beyond pragmatism and compromise. The focus of this briefing is on punishment following the sentence of a court, but CRIN is also deeply concerned about pre-trial process which can result in the lengthy detention of children and leave them vulnerable to numerous abuses.

Please note that, where possible, links to free online versions of the relevant legislation, case law and literature have

been provided in the footnotes. Please contact CRIN if you are aware of any changes to legislation or factual errors.

Country Profiles

Antigua and Barbuda

Detention at Her Majesty's pleasure: the Offences Against the Person Act¹ provides for detention “during Her Majesty's pleasure”, for which no limits are set, in lieu of the death penalty for persons under 18 years. The Government has stated that this allows for the possibility of life imprisonment for under 18s.²

Persons under 18: Offences committed by under 18s, with the exception of murder or those allegedly committed jointly with an adult, should be heard in the juvenile court³ and there is no life imprisonment under the Juvenile Act.⁴

- **Magistrates' Courts:** no person under the age of 14 convicted under the Magistrates Code of Procedure or the Juvenile Act⁵ can be sentenced to imprisonment and no person between the ages of 14 and 16 can be sentenced to more than three months imprisonment.⁶

- **Life sentence for treason regardless of age:** The Treason Act (article 8)⁷ sets a mandatory life sentence for treason offences, and the government has reported that this applies to persons under the age of 18.⁸

- The minimum age of criminal responsibility is set at 8 years, so persons aged 8 or over may be subject to life imprisonment.⁹

The meaning of “life imprisonment”: an

indeterminate life sentence is possible for murder and treason, so that a person convicted of those offences may never leave prison.

- Legislation may be read as allowing for life imprisonment without parole, but no known sentences of this type have been imposed on a person under 18 years.¹⁰

Australia

Juvenile justice in Australia is governed by the legislation of the states and territories. As such, juvenile justice laws and policies vary across the country.

New South Wales

The Crimes Act of New South Wales makes provision for a small number of offences for which life imprisonment is a penalty (including murder and sexual intercourse with a person under the age of 10 under aggravating circumstances).¹¹

- Persons under 18 are explicitly excluded from the mandatory life sentence without parole for persons who murder police officers, which implies that for other offences where life sentences are prescribed, those sentences apply to children as to adults.¹²

Young Offenders Act 1997:¹³

- Applies to: persons of or over 10 years but under 18 years.¹⁴

- Offences covered: summary offences and indictable offences that may be dealt with summarily. The most serious offences, those to which life imprisonment would be a potential

sentence, cannot be heard summarily and so the Young Offenders Act is unlikely to limit the application of life sentences to children.

Victoria

The Criminal Division of the Children's Court holds jurisdiction over all summary offences and all charges for indictable offences other than the most serious and violent offences, including those for which life imprisonment is a penalty.¹⁵

- Offences within the jurisdiction of the Children's Court cannot carry life sentences.¹⁶

Life imprisonment is a sentence for a small number of crimes under the criminal law of Victoria, including murder and treason.¹⁷

- The relevant provisions do not specifically state their application to children, but nor do they limit their application on the basis of age. Provisions of the Crimes Act 1958 envisage that persons under the age of 21 are eligible to life imprisonment.¹⁸

Queensland

Under the Youth Justice Act, persons under 17 may only be sentenced to more than 10 years imprisonment, including the possibility of life imprisonment, if (i) the offence would be punishable with a life sentence if committed by an adult, (ii) the offence in question involves the commission of violence against a person and (iii) the court “considers the offence to be a particularly heinous offence having regard to all the circumstances.”¹⁹

- Note a child is defined for the purposes of the Youth Justice Act as a person under 17,²⁰ and so children

aged 17 years are treated as adults by the Queensland criminal justice system and will be eligible to life imprisonment in less restrictive circumstances. The Governor in Council has the power to increase this age to 18 by regulation.²¹

Tasmania

Persons aged 10-18: can be subject to a range of specialised juvenile justice measures, but can also be subject to a detention order.²² A sentence under this provision cannot be more severe than that imposed on an adult for the offence in question, but since life imprisonment can be applied to adults, life imprisonment is not excluded.²³

Other Australian States and Territories: legal procedures and practices vary throughout the remaining Australian States and Territories, but life imprisonment is possible in all of them.²⁴

The Bahamas

Detention during Her Majesty's pleasure: where a person under the age of 18 is found guilty of murder, he or she shall be detained “during Her Majesty's pleasure” in lieu of the death penalty.²⁵

Life imprisonment: is a penalty for a number of offences in the Penal Code, which can apply to persons under 18, including murder, manslaughter, abetting the suicide of another person, treason, use of armed force against the government, and perjury in relation to a capital crime.²⁶

- Persons under 7 years of age cannot be held criminally responsible, and a

person between 7 and 12 years can only be held criminally responsible where they have “attained sufficient maturity of understanding to judge the nature and consequences” of his or her conduct “in the matter in respect of which he is accused”.²⁷

The meaning of life imprisonment: it is not clear what life imprisonment means in Bahamian law. The Privy Council ruled in 2006 that the mandatory death penalty for murder in the Bahamas was unconstitutional,²⁸ and since then life imprisonment has become a much more common sentence. It appears, however that there is no settled case law as to the meaning of the sentence.²⁹

Bangladesh

Persons under 16 can be sentenced to life imprisonment: the Children Act generally prohibits imprisonment or transportation for persons under 16 years of age,³⁰ but when a child (i) is found to have committed an offence of so serious a nature that the court is of the opinion that no punishment authorised under the provisions of the Children's Act is sufficient; or (ii) the child is of so unruly or of so depraved character that he cannot be committed to a certified institute and no other method with which the case may be dealt with is suitable; then (iii) persons under 16 may be imprisoned.³¹ The State has reported that these provisions permit imprisonment for life.³²

Children aged 16 to 18 tried as adults: the Penal Code allows for life imprisonment, always including hard labour,³³ for a range of offences, but

can this be commuted to a term not exceeding 20 years.³⁴

• Special Powers Act: range of offences for which life imprisonment is a punishment.³⁵

The meaning of “life imprisonment”: the definition of “life” with regards to a life sentence is unclear. Section 57 of the Penal Code provides that a life sentence is taken to be one of 30 years when calculating “fractions” of a sentence. Section 45 of the Penal code, however, indicates that “life” denotes the life of a human being unless the contrary appears from the context.

Number of children involved: In January 2000 there were four children under 15 serving life sentences in Tongi Child Development Centre and in August 2008 there was one child under 15 serving a life sentence in Jessore Child Development Centre (Ministry of Women and Children Affairs).³⁶

Barbados

Detention during Her Majesty's pleasure: the Juvenile Offenders Act prescribes detention “during Her Majesty's pleasure” for under 18s where the death penalty would be applicable for an adult.³⁷

Persons under 14: may not be sentenced to imprisonment³⁸ but can be sentenced to detention “during Her Majesty's pleasure”, which permits detention “in such place and under such conditions as the Governor-General may direct”, which would appear to authorise the indefinite

detention of persons under the age of 14, up to and including for life.³⁹

Persons aged 14 and 15: can only be imprisoned where it is not possible for the individual to “be suitably dealt with in any other way whether by probation, fine, corporal punishment, committal to a Reformatory and Industrial School or otherwise”.⁴⁰

Persons aged 16-17 are tried as adults: a range of offences are punishable by life imprisonment.⁴¹

Belize

Mandatory life sentences without the possibility of parole are unconstitutional: in *Bowen and Jones v. the Attorney General of Belize*⁴² the Supreme Court of Belize found that the imposition of mandatory life sentences without the possibility of parole for juveniles was unconstitutional, in that it was prohibited by the Constitutional prohibition on torture, inhuman or degrading punishment or treatment.⁴³

- The Prison Rules 2006 allow for parole, but not for persons convicted of murder, so any sentence of life imprisonment for murder would be a sentence of life without possibility of parole.⁴⁴

- The judgement made only passing reference to life sentences for which parole was possible, and did not indicate that they would be found equally unconstitutional. In this particular case, both *Bowen and Jones* were sentenced to fixed terms of 25 years in place of life sentences.

Under the Penal Code, offences other than murder can be punished by life imprisonment and such penalties can be applied to persons under 18 including rape, kidnap, murder, attempt to murder, certain abortion related offences, aggravated burglary, blackmail and certain forgery related offences.⁴⁵

Life imprisonment in lieu of the death penalty: where a person under the age of 18 would be sentenced to death in lieu thereof, the court must sentence him or her to imprisonment for life.⁴⁶ The State has reported that this requires 18-20 years to be served without the possibility of parole and that it can apply to children as young as 9 years old.⁴⁷

- The State's report is ambiguous as to what happens after the 18-20 years has elapsed: it may be that the person must be released, released on license or merely becomes eligible for release.

Meaning of life imprisonment: in *Bowen and Jones v. A-G of Belize*, Chief Justice Conteh indicated that life imprisonment should include a tariff period (the minimum term to be served in detention) which is determined upon sentencing, after which the convicted person would be eligible for parole. The Chief Justice called for sentencing practices to be rationalised such that the tariff period would always be known at the start of the sentence.⁴⁸

Botswana

No explicit prohibition on life imprisonment: the Penal Code states that no person under 14 can be

sentenced to imprisonment⁴⁹ but there is no explicit prohibition on life imprisonment for older children.

- The Children Act 2009 provides for children to be sentenced to imprisonment and that a child convicted of a capital offence other than murder, shall be sentenced to “such [a] term as the court considers appropriate”.⁵⁰ Life imprisonment is not prohibited, and no specific sentence is specified for murder.

Detention at the President's pleasure: the Penal Code prohibits the death penalty for child offenders, but provides for detention “during the President's pleasure” in its place.⁵¹ For such sentences there is no limit on the term that could be served.

Brunei Darussalam

Persons under the age of 14: cannot be sentenced to imprisonment.⁵²

Persons between the ages of 14 and 18: may not be detained unless “of so unruly a character that he or she cannot be detained in a place of detention or an approved school”.⁵³

- Alternative measures to imprisonment exist for persons under the age of 18, including discharge, probation, and/or custody in a place of detention, but these measures are not mandatory.⁵⁴

Detention at the pleasure of His Majesty the Sultan and Yang di-Pertuan: where a child or young person is convicted of murder, or other culpable homicide not amounting to murder, or attempted murder or

voluntarily causing grievous hurt, he or she may be sentenced to be detained “at His Majesty the Sultan and Yang Di-Pertuan's pleasure”.⁵⁵

- The same penalty exists for any offence formerly punishable by death.⁵⁶

The meaning of “life imprisonment”: Life sentences can last for an entire natural life⁵⁷ but do not exclude the possibility of parole.⁵⁸

Cameroon

Persons under 10 years: cannot be held criminally responsible.

Persons aged 10 to 14: can be placed in the home of a trustworthy person, in a boarding school or in a charitable institution until he or she reaches the age of majority. Life imprisonment is not permitted.

Persons aged 14 to 18: the State has indicated that 10 years imprisonment is the maximum penalty that may be applied where the relevant sentence for an adult would be the death penalty or life imprisonment.⁵⁹

Canada

General prohibition on life imprisonment for “young persons”: youth courts have exclusive cognisance over offences committed by “young persons” (persons between the ages of 12 and 17 inclusive),⁶⁰ and life sentences cannot be applied by the Youth Courts.

- If sentenced by the youth justice

court, life sentences cannot be applied, rather the Act sets lesser penalties. For first degree murder 10 years is the maximum applicable term, comprised of no more than six years in custody and a further term in conditional supervision within the community. For second degree murder, the maximum term is seven years, comprised of no more than four years in custody and a further term in conditional supervision within the community.⁶¹

Exceptions to the general rule: in relation to indictable offences for which an adult would be liable to imprisonment for more than two years, there are two instances in which a person under 18 might be liable to life imprisonment:

- Where a young person indicates that he or she does not wish to be subject to a youth sentence, the court shall order an adult sentence to be imposed.⁶² Adult sentences can include life imprisonment, whereby a tariff is set for the minimum amount of time that must be served in detention before parole can be considered; or

- The court is of the opinion that a youth sentence imposed in accordance with the YCJA would not have sufficient length to hold the young person accountable for his or her offending behaviour.

The meaning of “life imprisonment”: a minimum term to be served before an offender is eligible for parole is set upon sentencing. For the most serious crimes, such as high treason or first degree murder, the minimum period to be served in detention prior to that person being eligible for parole is 25 years.⁶³

Cyprus

Note: information is based on the State's submissions and written responses to the Committee on the Rights of the Child and the Committee's Concluding Observations. The State has reported that reforms to the juvenile justice system that apply to all children under 18 years of age are currently being formulated.

Persons aged under 14 years (“children”): cannot be sentenced to imprisonment.⁶⁴

Persons aged 14 to 16 years (“young persons”): can only be sentenced to imprisonment where he or she cannot be suitably dealt with under the Juvenile Offenders Law (Cap. 157).

- There does not appear to be any express limitation on terms that can be served by “young persons” and since life imprisonment is a penalty in Cypriot criminal law, presumably children can be sentenced to life imprisonment.

Persons aged 17-18: are not defined as children, young persons or juveniles (under 16) and so appear to be subject to the adult justice system. Life imprisonment is a penalty for a number of offences in Cypriot criminal law, including a mandatory life sentence for murder.

Detention at the Governor's pleasure: under the Criminal Code 1959, persons under 16 had to be sentenced to detention during the Governor's pleasure in lieu of the death penalty. The death penalty has since been prohibited in Cyprus and an up to date

version of the legislation is not available online, so it is not clear if this sentence still exists and, if so, in what form.⁶⁵

The meaning of “life imprisonment”: life imprisonment is defined as the extent of a person's biological life. Release can occur if permission is granted by the President in consultation with the Attorney-General.⁶⁶ In practice such releases do occur.

- In the European Court of Human Rights Case, *Kafkaris v Cyprus* [2008], the Court held that an “irreducible” life sentence would constitute prohibited treatment under article 3 of the European Convention on Human Rights (prohibition of torture, inhuman and degrading treatment). This means that release from prison must be de jure and de facto possible for a sentence of life imprisonment to be compatible with the Convention, though release need not actually occur.⁶⁷ On the facts, release at the discretion of the President upon consultation with the Attorney-General, was considered to constitute such a de jure and de facto possibility of release.⁶⁸

- Note: in determining whether life imprisonment constituted torture, inhuman or degrading treatment, the Court noted that in some cases age could be relevant in assessing whether the treatment, its physical or mental effects” reached the prohibited standard.⁶⁹ Life imprisonment for persons under 18 was not directly addressed.

Dominica

Detention during the State's pleasure: in prohibiting the death penalty for persons under 18, the Offences Against the Person Act prescribes, in lieu, detention “during the State's pleasure”.⁷⁰ The Government has stated that such a person may be sentenced to life imprisonment without the possibility of release.⁷¹

Meaning of “life” imprisonment: the Offences against the Person Act may allow for life without parole but there are no known cases.⁷²

Fiji

Generally no life imprisonment for persons under 17: children who offend under the age of 17 are regarded as juveniles and are generally dealt with in the Juvenile Court, though Juvenile Courts cannot dispose of murder or attempted murder cases which must be heard in the High Court.⁷³

- Juvenile Courts may sentence a young person to up to two years imprisonment, therefore life imprisonment is not a legal penalty for persons under 17 in relation to any trial before the Juvenile Courts.⁷⁴

Exception: (i) For the offences of murder, attempted murder, manslaughter, or of wounding with intent to do grievous bodily harm; (ii) where the court is of the opinion that none of the other methods by which the case may be legally dealt with is suitable; (iii) the offender may be detained for such a period as directed by the order of the court and at such a place and on such conditions as directed by the relevant Minister. Persons detained in this way may be

released on licence by the Minister at any time and recalled to detention for breach of that licence.⁷⁵

Persons aged 17 or over are tried as adults: juvenile justice legislation does not apply to persons aged 17 or over and so such persons are generally liable to the same sentences as adults. The Penal Code provides for life imprisonment for a large number of offences, including treason, inciting to mutiny, piracy, rioting and demolishing buildings, rescue of a person under sentence of death or life imprisonment, rape, incest by males, murder and killing an unborn child.⁷⁶

- In lieu of the death penalty: no person can be sentenced to death for an offence committed whilst under 18 years of age, rather the court must sentence them to be detained “during the Governor-General's pleasure” (s. 25 Penal Code)

Meaning of “life imprisonment”: whenever a judge sentences a person to life imprisonment, he or she must set a minimum period that must be served in detention.⁷⁷

Gambia

The Children's Act 2005 reformed national law on juvenile justice, reportedly barring imprisonment for children (defined as under 18).

- This is based on information drawn from the UPR,⁷⁸ but legal information from the country is not freely available, so CRIN has been unable to confirm this.

Ghana

Prohibition on life imprisonment for offences committed by persons under 18: the maximum sentence for offences committed by juveniles or young offenders is set at three-years for the most serious offences (murder, rape, defilement, indecent assault involving unlawful harm, robbery with aggravated circumstance, drug offences and offences relating to firearms).⁷⁹ This initial term of sentence may be extended by up to a year after sentencing, but only where it is in the best interests of the juvenile or young offender, and the detention may not go beyond the offender's 21st birthday.⁸⁰

Grenada

Persons aged 16 and 18 are tried as adults: life imprisonment exists for a range of offences under the Criminal Code.⁸¹

Under 16s may be subject to life imprisonment: it is likely that life imprisonment would be lawful for younger children under the substitute for capital punishment provisions of the Criminal Code,⁸² though the State has reported that “[t]he current judicial practice is to refrain from sending children under the age of 16 to prison”.⁸³

Detention at the pleasure of Her Majesty: the death penalty may not be pronounced or recorded against a person convicted of murder if it appears to the court that he was under 18 at the time of the offence, but in lieu thereof, he must be sentenced to be detained during Her Majesty's

pleasure.⁸⁴

Guyana

Detention at the President's pleasure: the Criminal Law (Procedure) Act provides for detention “during the President pleasure” for persons under 18 years for what would otherwise be capital offences.⁸⁵

- Persons detained at the President's pleasure are usually held at the New Opportunity Corps (training school) and transferred to appropriate place of detention at 18.⁸⁶

- There is no explicit prohibition on life imprisonment.

Restrictions on imprisonment for children: the Juvenile Offenders Act provides that no person under 17 may be sentenced to imprisonment.⁸⁷ There is an exception to this general rule in relation to murder, manslaughter or wounding with intent to cause grievous bodily harm.⁸⁸

- The Criminal Law (Offences) Act allows for offences including murder and manslaughter to be punished by life imprisonment.⁸⁹ It would seem, therefore that children can be subject to life imprisonment for these offences.

- There is a lack of clarity in these provisions. With regards to the separate treatment of children under the age of 17, the relevant provisions do not use mandatory language, so such persons may be dealt with under the Juvenile Offenders Act

Persons aged 17 years old are tried as

adults: persons aged 17 are tried as adults and life imprisonment is a penalty for a number of offences.⁹⁰

No clear definition of life imprisonment: the Criminal Law (Offences) Act does not define life imprisonment.

India

Life imprisonment is prohibited in federal law: under the Juvenile Justice (Care and Protection of Children) Act, “no juvenile in conflict with the law shall be sentenced to death or imprisonment for any term which may extend to imprisonment for life”.⁹¹

Jammu and Kashmir: Children as young as 14 may be sentenced “to be kept in safe custody in such place and manner as [the Court] thinks fit”, but that the period of detention may not exceed that of the maximum period for which the juvenile could be sentenced for the offence.⁹² Life imprisonment is not expressly prohibited.

Jamaica

Definition of “child”: under 18 years of age.⁹³

- No child under the age of 12 can be guilty of any offence.⁹⁴

Summary jurisdiction of the Children's Court: all charges against a child of summary jurisdiction must be heard by the Children's Court.⁹⁵

- There are exceptions where an offence was committed jointly with a

person over the age of 18

No child under the age of fourteen may be sentenced to life imprisonment: the maximum term of imprisonment to which a person under the age of fourteen may be sentenced is 25 years for the most serious offences (including murder, manslaughter, treason and infanticide) but only where the court is of the opinion that no other legal method of dealing with the child is suitable.⁹⁶

Life imprisonment in lieu of the death penalty: persons under the age of 18 at the time an offence was committed may not be sentenced to death, but are liable to be imprisoned for life in lieu of the death penalty.⁹⁷

The meaning of “life imprisonment”: when convicting a child of murder and handing down a sentence of life imprisonment, the court may specify a period that a child should serve before becoming eligible for parole.⁹⁸

- Children over 14 years of age and under 18 who are sentenced to life imprisonment may, in certain circumstances, be detained in adult correctional centres.

Detention “at Her Majesty’s pleasure”: in a series of cases culminating in *Mollinson*⁹⁹ the Privy Council held that children could be subjected to an indeterminate sentence that would allow for detention for the rest of their lives but that the detention would have to be under the supervision of the courts rather than the executive.

- Delivering the judgement of the court, Lord Bingham indicated that he saw life imprisonment and detention

at the court's pleasure to be of a different character.¹⁰⁰

- • **How many children affected:** the figures on how many children are affected by these provisions varies with the source of the statistic and what is measured.

- In response to the CRC's written questions in 2003, the State reported that 89 murders were committed by persons 17 years or younger in 2000 and 128 in 2001. It is not clear how these figures tally with statistics provided in relation to sentences, which report that only 9 such persons were sentenced for murder. Figures from 2007-2011 indicate that only 6 minors were convicted of murder during that period.¹⁰¹

- 2006: 16 children (13 male, 3 female) were brought before the courts in relation to murder charges.¹⁰²

- Commentators have indicated that it may be more common practice to try children with manslaughter, but figures for manslaughter convictions of children are not readily available.

Note: there is a great deal of information on children involved in violent crimes and in conflict with the law- the Children's Advocate is due to publish a report on the subject this year (2012).

Kenya

Prohibition on life imprisonment for children: the Children Act provides that “[n]otwithstanding the provisions of any other law, no child shall be

subjected to ... life imprisonment".¹⁰³

Detention at the President's pleasure: persons under the age of 18 who would otherwise be sentenced to death, must be sentenced to be detained during the President's pleasure in such a place and under such conditions as the President may direct.¹⁰⁴

Lesotho

Note: the legal situation regarding life imprisonment of children in Lesotho has been difficult to evaluate because of the paucity of available legal information.

Persons under 10 years: are not criminally responsible.

Persons aged 10-14: can be held criminally responsible where they have "discernment"

- If criminally responsible, the same provisions apply as to persons aged 14-18

Persons aged 14 to 18: can always be held criminally responsible.

- Are dealt with under the Children's Protection Act of 1980, but the differences in treatment compared to adult courts appears to be primarily with regards to procedure.¹⁰⁵

Life imprisonment?: persons under 18 can be sentenced to life without parole under the Criminal Procedure and Evidence Act, s. 344A.¹⁰⁶

- This provision may have been repealed by the Child Protection and

Welfare Act passed in 2011. The Bill in its earlier forms included a prohibition on life imprisonment for persons under 18.¹⁰⁷ The University of San Francisco research indicates that a maximum term was set at 20 years imprisonment if a child is transferred to an adult court and 3 years if tried in a juvenile court¹⁰⁸ but CRIN has not been able to source the enacted version of the the Act.

Indeterminate sentences: the State reports that children have been sentenced to indeterminate sentences in a Juvenile Training Centre, though the limit set by the Prison Proclamation 37 of 1957 is 3 years detention.¹⁰⁹

Effectiveness of juvenile justice legislation: in its initial report to the Committee on the Rights of the Child, the State acknowledged that "[t]he Children's Protection Act is not much respected by the courts. The police and prosecutors are also known to ignore this Act".¹¹⁰

Kiribati

Life imprisonment is applicable regardless of age: life imprisonment is specified in the Penal Code for a large number of offences, and no limitations are set with regards to age beyond the minimum age of criminal responsibility (10 years).¹¹¹

Malawi

General prohibition on imprisonment of children: the Child Care, Protection and Justice Act prohibits the imprisonment of a child for any offence.¹¹²

• A “child” is defined as any person under the age of 16 years.¹¹³

Detention of children: when a child is convicted of certain listed offences, including offences punishable by death, attempted murder, conspiracy to murder and other violent or potentially fatal acts,¹¹⁴ they may be sentenced to be detained in a reformatory. The act sets no specific limits on the term for which a child may be detained under these provisions, but does provide for release subject to conditions which, if broken, can result in recall to detention.¹¹⁵ These provisions have much in common with the English system of life imprisonment, though they guarantee that no person who commits an offence under the age of 16 will be detained in a prison as a result of that offence.¹¹⁶

Persons aged 16 and 17: are not protected by the Child Care, Protection and Justice Act's juvenile justice provisions, and so are presumably subject to the adult justice system. Life imprisonment is a permitted offence for a number of offences under the Penal Code.¹¹⁷

Detention during the President's pleasure: where a person under the age of 18 would otherwise be sentenced to death, they must instead be sentenced to be detained during the President's pleasure.¹¹⁸

Malaysia

Detention at the pleasure of Yang di-Pertuan and Yang di-Agong: in prohibiting the death penalty for persons under 18, the Child Act¹¹⁹

prescribes detention during the pleasure of the Yang di-Pertuan Agong if committed in the federal territories of Kuala Lumpur or Labuanor and the Yangi di-Pertua Negeri if the offence was committed in the State.¹²⁰

• Detention must be reviewed annually, but there is no prohibition on life imprisonment.¹²¹

Internal Security Act:¹²² offences under this Act and the corresponding Essential (Security Cases) Regulations are punished “regardless of age”.¹²³ Life imprisonment is prescribed for the offences of consorting with persons possessing arms or explosives and to the disruption of public security, public order and terrorism”.¹²⁴

Maldives

Life imprisonment without possibility of release: the Government has reported that this penalty is not applicable for offences committed by persons under 18, but there appears to be no explicit prohibition.¹²⁵

No explicit prohibition: Under the Regulation on Conducting Trials, Investigations and Sentencing Fairly for Offences Committed by Minors,¹²⁶ a child convicted of an offence punishable by imprisonment or banishment may be sent to a juvenile detention centre, a rehabilitation centre or may be placed under house arrest subject to judicial discretion.¹²⁷ There is no explicit prohibition, however, on a sentence of life imprisonment.

Commutation of capital punishment: According to one source, sentences of

death are usually commuted to life sentences,¹²⁸ and this would presumably apply to children.

The meaning of “life imprisonment”: under the Penal Code,¹²⁹ life imprisonment is taken to be 25 years for the purposes of calculating fractions of terms of punishment.¹³⁰ This section also provides that “[no] punishment given under this Law for a single offence shall exceed 25 years”. This limits a life sentence to 25 years imprisonment but it is possible that the sentence may contain restrictions beyond this, and does not set a limit if more than one offence is committed.

Malta

Children under 9: cannot be held criminally responsible.¹³¹

Children aged 9 to 14: cannot be held criminally liable except for offences committed with mischievous discretion.¹³²

Children aged 14 to 18: are liable to the punishment applied to an adult, but reduced by one or two degrees.¹³³ This should prevent the application of life imprisonment to children, and render 30 years the maximum term to which a child could be sentenced. The State has reported that it is not aware of any instance of a person under 18 being so sentenced, but in commenting on the possibility that children could be sentenced to life indicated that such a sentence may always be circumvented.¹³⁴ This implies that life imprisonment for persons under 18 may be legally possible, though it is not clear what the relevant provisions would be.

• Research conducted by the University of San Francisco has indicated that children aged 17 could be sentenced to life imprisonment under article 37 of the Penal Code,¹³⁵ though in the version that CRIN has been able to obtain, children aged 14-18 are grouped together, though those aged 16-18 are excluded from juvenile justice procedure.¹³⁶ The only evidence CRIN has found is an article on amending the Criminal Code dated 28 November 2011,¹³⁷ but no online version of the amended Act which includes this change, including that published through the Ministry of Justice.¹³⁸

The meaning of “life imprisonment”: after sentencing a person to life imprisonment, the court may recommend in writing to the Prime Minister the minimum period which in its view should elapse before the prisoner is released from prison.¹³⁹ No maximum period is set, so this may allow for a life sentences that lasts for the rest of a persons natural life, though the ECHR ruling in Kafkaris v. Cyprus would prohibit irreducible life imprisonment (imprisonment without the real possibility of release).

• Where a person pleads guilty to a crime for which life imprisonment is a penalty, the court may impose a punishment of between eighteen and thirty years in lieu of life imprisonment.¹⁴⁰

Mauritius

Prohibition on life imprisonment for persons under 18?: In its reports to the UN Committee on the Rights of the Child, the State claimed that life

imprisonment is prohibited by the Constitution for persons below the age of 18,¹⁴¹ though it is not clear which provision contains this prohibition.

• **Note:** Jamil Ddamulira Mujuzi has indicated that life imprisonment in lieu of the death penalty remains legal for persons under 18.¹⁴²

Mozambique

Prohibition on life imprisonment for children: children aged 16-18 cannot be sentenced to more than 8 years imprisonment¹⁴³ and children younger than 16 cannot be held criminally responsible, though they may be subject to certain juvenile justice measures.¹⁴⁴

Namibia

The Child Care and Protection Bill has been under development for some time, but is to be tabled before Parliament this year (2012). If enacted, the Bill would replace the Children Act 1960.

Children under 7: do not have legal capacity, and so cannot be sentenced to imprisonment.

Children aged 7 to 14: can only be convicted of an offence and imprisoned if the State can prove that the child knowingly intended to do wrong and understood the consequences of the wrongful act.¹⁴⁵

Children aged 14-18: where a child aged 14 years or older has committed an offence and the children's court is satisfied that (i) the offence committed is of so serious a nature that his

conduct and behaviour have been such that it would not be in his interest or in the interest of other children in a special school to send that person to such a special school; and (ii) no other measure provided by the Children Act is suitable or sufficient; then (iii) the court may sentence a child to be detained in custody "in such a manner as it thinks fit".

• Detention under this section cannot exceed the term of imprisonment set for the offence, but as life imprisonment is a penalty for treason, murder, rape and robbery, the sentence of detention may be for a life term (see below).

The meaning of "life imprisonment": the Criminal Procedure Act defines life imprisonment as "imprisonment for the rest of the natural life of a convicted person",¹⁴⁶ and allows for "life imprisonment with or without the prospect of parole or probation or remission of sentence"¹⁴⁷

• The Criminal Procedure Code 2004 provides for life imprisonment to be a sentence for treason, murder, rape and robbery.¹⁴⁸

• In the case of the State v. Tcoeib, the constitutionality of a life sentence was unsuccessfully challenged, though not specifically in relation to children.¹⁴⁹

Nauru

The Criminal Code of Nauru was drawn from the Queensland Criminal Code, and so law is likely to reflect the Australian State's laws as amended nationally (no juvenile justice amendments seem to have been

passed). A fully amended version of the Nauru law isn't available online, and Nauru hasn't reported to the UN Committee on the Rights of the Child yet, so it is difficult to be definitive about its laws. However, it seems likely that children aged 17 would be tried as adults and could be sentenced to life imprisonment as in Queensland, and that children under 17 could be sentenced to life imprisonment in more restrictive circumstances (see Queensland above).

New Zealand

Persons under 14: cannot be prosecuted for offending, except for the offences of murder or manslaughter.¹⁵⁰

Prohibition on life imprisonment without parole for persons under 18: under the Sentencing Act 2002, a person under 18 is exempt from the provisions that permit a life sentence to be given without a minimum term after which he or she becomes eligible for parole.¹⁵¹

General prohibition on imprisonment for children aged 14 to 17: the Youth Court generally has jurisdiction for offences committed by persons under 17, and cannot impose sentences of imprisonment,¹⁵² though where a person aged 14 to 17 is transferred to an adult jurisdiction, he or she may be sentenced to imprisonment, including life imprisonment.

- A person under 17 years of age can only be imprisoned for purely indictable offences (these are more serious offences- those that may be heard on indictment).

Children transferred to adult jurisdictions: children under the age of 17 are automatically transferred to the adult jurisdiction for offences of murder or manslaughter and can be transferred for other serious offences.

- Murder: there is a presumption that if an offender is convicted of murder, he or she will be sentenced to life imprisonment unless it “would be manifestly unjust” to do so.¹⁵³

- Manslaughter carries a maximum sentence of life imprisonment.¹⁵⁴

The meaning of “life imprisonment”: when a person is sentenced to life imprisonment, a minimum term must be set that must be served before that person can be considered for parole. The minimum such term that can be set is 10 years¹⁵⁵, and must be more than 17 years where certain aggravating criteria are met.¹⁵⁶

- A sentence of life imprisonment without parole can be applied in certain circumstances in which there is a history of offending and/or warnings.¹⁵⁷

Nigeria¹⁵⁸

In States with legislation derived from the Children's Act 2003: there is no prohibition on life imprisonment for children.

- For murder, robbery, manslaughter or wounding another person with the intent to do grievous bodily harm, children may be ordered to be detained for such period as may be specified in the order and in such a place and on such conditions as the

Court may direct.¹⁵⁹

Akwa-Ibom: A child is defined in the Children's Rights Act as 16 and under, which indicates that persons aged 17 are sentenced as adults, including to life imprisonment.

Northern Jigawa: Muslim children may be sentenced to life under the Sharia Penal Code 2000 and Sharia Criminal Procedure Code Law 2001 from puberty, and non-Muslim children from the age of 17 under the Penal Code 1960 and the Criminal Procedure Code.

Where the Children's Rights Act 2003 has not been adopted the Child and Young Persons Act provides for the detention of persons under 17 "at the President's pleasure" in lieu of capital punishment.

- The Criminal Procedure Act 1945 provides that 7-13 year olds shall not be imprisoned and no person between the age of 14 and 16 shall be imprisoned "if he can be dealt with in any other way whether by probation, fine, corporal punishment or otherwise".¹⁶⁰ Persons aged 9-13 may not be sentenced to imprisonment "unless the court is of the opinion that the individual in question is of so unruly a character that he cannot be detained in a convenient Government establishment or an institution or that he is so depraved a character that he is not a fit person to be so detained".¹⁶¹

- Persons aged 17 or over can be tried as adults and may be sentenced to life imprisonment for a number of crimes, including treason, rioting, perjury, escaping from custody.

- Women aged 17 and over who are pregnant at the time of sentencing for a capital crime shall be sentenced for imprisonment for life.¹⁶²

Note: there is a great deal of variation with regards to laws among the Nigerian States and this section does not fully address the variation between the States.

Pakistan

Life imprisonment for under 18s not prohibited: The Juvenile Justice System Ordinance does not prohibit life imprisonment, though it provides for non-mandatory alternatives.¹⁶³

Life sentences for children also exist under the Control of Narcotic Substances Act¹⁶⁴ and, probably, the Anti-Terrorism Act.

Life is defined as the life of a human being unless contrary appears from the context.¹⁶⁵

Note: s. 55 allows that life imprisonment can be commuted to a term not exceeding fourteen years by the relevant Provincial Government (for offences under Ch. XVI, offences affecting the body and particularly life, the consent of the victim/heirs is required)

- Section 57 of the Penal Code¹⁶⁶ provides that life imprisonment is reckoned to be equivalent to 25 years in calculating sentences based on fractions thereof

Papua New Guinea

Youth Courts: hear all summary cases, and all indictable cases as summary cases, against persons under 18 with the exception of homicide, rape, and any other offence punishable by death or life imprisonment.¹⁶⁷ Where a person under 18 is charged with such an offence, his or her case is heard by the National Court which may exercise the sentencing powers under the Juvenile Courts Act

- Youth Courts cannot sentence a child to life imprisonment

Life imprisonment and the death penalty: the State has reported that persons under 18 are not sentenced to death or life imprisonment, though the provisions relating to the death penalty do not mention age.¹⁶⁸

How many children are affected: when reporting to the Committee on the Rights of the Child in 2004, the State acknowledged that no reliable statistics were available on juvenile cases.¹⁶⁹

Rwanda

Prohibition on life imprisonment for persons under 18: when any person under the age of 18 would be liable to life imprisonment, they must instead be sentenced to a period of 10 to 20 years imprisonment.¹⁷⁰

Saint Kitts and Nevis

Detention during the Governor-General's pleasure: The Offences Against the Person Act prohibits the death penalty for persons convicted of murder when they were under 18,

though it is unclear whether the relevant date is the offence or the conviction. Children may be detained “during the Governor-General's pleasure” in lieu of the death penalty.¹⁷¹

- Detention is wholly discretionary, but imprisonment for life is not ruled out. Privy Council held in *Greene Browne v The Queen*¹⁷² that this should be read as “during the Court's pleasure”

Saint Lucia

Persons under 12 years: cannot be held criminally responsible, and so cannot be sentenced to life imprisonment.¹⁷³

Persons age 12-15 (inclusive): are treated as juveniles, and cannot be sentenced to a term of imprisonment, though they can be remanded in a Government Industrial School.¹⁷⁴

Persons sixteen years and over: are tried as adults and can be sentenced to life imprisonment for a number of offences, including non-capital murder, aiding and abetting murder, attempted murder, rape and sexual intercourse with a person under twelve.¹⁷⁵

- A person under 18 cannot be sentenced to death for capital murder but must instead be sentenced to a term of imprisonment “deemed appropriate by the court”.¹⁷⁶

Saint Vincent and the Grenadines

Life sentences for under 16s: The Government has stated that in lieu of the death penalty, a person under 16 at the time of the offence may be

detained for life.¹⁷⁷

Persons aged 16 and 17: Are tried as adults and can face life imprisonment for a number of offences.¹⁷⁸

The meaning of “life imprisonment”: legislation could allow a sentence of life without parole, but no known juvenile is serving such a sentence.¹⁷⁹

Samoa

Persons aged 10-17 (inclusive): may only be sentenced to detention as a last resort and in circumstances in which there is no reasonable alternative.¹⁸⁰ The Young Offenders Act does not set limits on the length of imprisonment to which a person under 18 may be sentenced and the Crimes Ordinance allows for sentences of life imprisonment for a number of offences.¹⁸¹

Seychelles

Under 14 years: no child under 14 should be sentenced to imprisonment.¹⁸²

Persons aged 14-17 (inclusive): can only be imprisoned where there is no other suitable provision under the Children Act.¹⁸³ The Act does not set limits on the term to which a child aged 14 to 17 may be sentenced. The Penal Code includes a number of offences for which life imprisonment is a penalty.¹⁸⁴

Sierra Leone

Children under 14 years: no child can be held criminally responsible for his or

her actions if under the age of fourteen.¹⁸⁵ No person under fourteen may be sentenced to imprisonment.¹⁸⁶

Children aged 14 to 17 (inclusive): can only be imprisoned where “the court considers that none of the other methods in which the case may be legally dealt by with ... is suitable”.¹⁸⁷

- Except where a case involving a person aged 14-17 is of homicide, the Juvenile Court shall dispose of the case. Cases of homicide are heard by the High Court.

- No express limits are set on the period of time that a child can be detained for, and several offences potentially carry life sentences. Rachel Harvey conducted interviews with a Barrister in the Chambers of the Chief Justice in 2000 as part of her review of Juvenile Justice in Sierra Leone and was unable to establish what the practice was.¹⁸⁸

Detention during Her Majesty's pleasure: persons under 18 years of age cannot be sentenced to death, but must be sentenced to be detained at Her Majesty's pleasure in lieu of such a penalty.¹⁸⁹

- A person detained under this provision may be released on license by the Governor-General, subject to whatever conditions he or she sets. The license may be varied or revoked at the decision of the Governor-General: if revoked, the child subjected to the sentence would be returned to a place of detention at the direction of the Governor-General.¹⁹⁰

Singapore

Detention for life in lieu of the death penalty: persons under the age of 18 may not be sentenced to death, but a sentence of life imprisonment must be passed in lieu of capital punishment.¹⁹¹

Indefinite detention of persons under the age of 18: Where a person under 18 has been convicted of murder, other culpable homicide or voluntarily causing grievous harm, the court is of the opinion that none of the other measures with which the case may be legally dealt with is suitable, the court may direct the person to be detained for such a period as it sees fit under the discretion of the relevant Minister. The Minister may release the detained person on licence at any time.¹⁹²

Persons aged 7-15: for certain serious offences, including culpable homicide not amounting to murder, attempted murder and voluntarily causing grievous hurt, the court may sentence the offender to be detained for the duration specified in the sentence.¹⁹³ The Penal Code punishes culpable homicide and attempted murder with life imprisonment.¹⁹⁴

Persons aged 16 and 17: are tried as adults and can be sentenced to life imprisonment for a number of offences under the Penal Code.¹⁹⁵

Meaning of “life” imprisonment: Cases decided after the case Abdul Nasir bin Amer Hamsah in 1997¹⁹⁶ require a minimum term of 20 years to be served for a life sentence, at which point release would be at the discretion of the Life Imprisonment Review Board or the President's Pleasure Review Board.¹⁹⁷

• S. 203(a): The penalty for homicide is “imprisonment for life, or imprisonment for a term which may extend to 20 years”.

Solomon Islands

Children aged 8 or younger: cannot be held criminally responsible¹⁹⁸

Children aged 9 years or older: mandatory life imprisonment for murder.¹⁹⁹

Children under 12 years: are presumed not to be criminally responsible for any act or omission, “unless it is proved that at the time of doing the act or making the omission he had capacity to know that he ought not to do the act or make the omission”.²⁰⁰

Children aged 14 and older: are treated as adults and can be sentenced to life imprisonment for a number of offences.

Offences for which life imprisonment may be applied include: treason, instigation of invasion, concealment of treason, genocide, inciting to mutiny, rioting and demolishing a building, rape, attempting to procure an abortion, manslaughter, murder, larceny of will, embezzlement by officer of post office etc.²⁰¹

• For “grave crimes” committed by persons under 18 years of age the relevant Minister, upon sentence of the court, may direct the child to be detained and released on license at his discretion.²⁰² This is almost identical to “detention at the pleasure of ...” though the phrase is not used in national legislation.

Meaning of “life imprisonment”: The High Court and Court of Appeal do not have a mandate in law to recommend parole, only the Governor-General can grant a pardon.

- Imprisonment of any child is rare, the State identified 3 to 4 children detained annually during its initial report to the UN Committee on the Rights of the Child in 2002, none of which had been sentenced to life imprisonment.²⁰³

South Africa

Children under 14 years: may not be sentenced to imprisonment.²⁰⁴

Children aged 14 years or older: may only be sentenced to imprisonment if they commit an offence referred to in schedules 1, 2 or 3 of the Child Justice Act 2008, and can be sentenced to no more than 25 years.²⁰⁵

- Interestingly, s. 77(6) contains a provision that would apply to a sentence of life imprisonment when applied to a child, though s. 77(4) appears to prohibit such a sentence.

Sri Lanka

Persons under 8 years of age: cannot commit an offence, and so cannot be sentenced to imprisonment.²⁰⁶

Persons aged 8-12: can be convicted of offences where they have “attained sufficient maturity of understanding to judge the nature and consequence of his conduct on that occasion”.²⁰⁷

Persons under 14: cannot be

imprisoned.²⁰⁸

Persons aged 14 to 16: cannot be imprisoned for an offence unless “of so unruly a character that he cannot be detained in a remand home or certified school or that he is of so depraved character that he is not a fit person to be so detained”.²⁰⁹

Persons aged 8 to 16: (i) where convicted of a scheduled offence other than murder; and (ii) the court is of the opinion that none of the other methods in which the case may legally be dealt with is suitable; then (iii) the court may sentence the child to an adult sentence, but “in such place and on such conditions as the Minister may direct”.²¹⁰ Release from such a sentence is on license, subject to conditions set by the Minister.

Persons aged 16 to 18: are tried as adults, but cannot be sentenced to death (see below).

Detention during the President's pleasure: persons under the age of 18 must be sentenced to detention during the President's pleasure in lieu of the death penalty.²¹¹

Meaning of “life imprisonment”: the term “life imprisonment” is not used at all in the Penal Code or the Children and Young Persons Ordinance rather the maximum sentence applied seems to be 20 years imprisonment though indeterminate sentences such as “during the President's pleasure” could last a lifetime.

Swaziland

Persons under 14: cannot be

sentenced to imprisonment.²¹²

Children aged 14-18: may be placed in the custody of any suitable person designated by a court order in lieu of imposing punishment upon him or her for an offence.²¹³ There is no explicit limitation on terms to which a person under 18 may be sentenced, and offences within national law provide for persons to be sentenced to life imprisonment, so it appears that children aged between 14 and 18 may be so sentenced.

Detention at Her Majesty's pleasure: where a person under the age of eighteen would otherwise be liable to the death penalty, they shall be sentenced to be detained at Her Majesty's pleasure in lieu of such a sentence.²¹⁴

Tonga

No age restrictions: Under the Criminal Offences Act, life imprisonment is the penalty for offences relating to the demolition of buildings, murder and inciting or assisting suicide.²¹⁵ No limitations are set on the age of the offender.

Indeterminate sentences: In prohibiting capital punishment for persons under 15 convicted of murder, the Criminal Offences Act provides for persons to be detained "during His Majesty's pleasure".²¹⁶

Trinidad and Tobago

Note: the Children's Bill was adopted by the senate in May 2012, but CRIN has been unable to source the enacted

version of the legislation. This section does not take account of the 2012 Children's Act, which may have made substantial amendments to the law in this area.

Persons aged under 7: cannot be charged with any offence and cannot be sentenced to imprisonment.²¹⁷

Persons aged 7 to 14: are presumed to be incapable of committing a crime, though this presumption can be rebutted by evidence that the child had sufficient understanding to know that the act was seriously wrong.²¹⁸

Persons aged 14 to 16: can only be sentenced to imprisonment where the court certifies that the young person "is of so unruly a character that he cannot be detained in a place of detention provided under the Children Act or that he is so depraved a character that he is not a fit person to be so detained".²¹⁹

Life imprisonment: there is not minimum age at which a person may be sentenced to life imprisonment, though there are more alternatives and greater protections in relation to persons who commit serious offences at younger ages.

The meaning of life imprisonment: a minimum term to be served will be set where a life sentence is handed down compared to detention at the State's pleasure, where such a term will not be set.²²⁰ There is a provision that allows the relevant Minister to discharge a person detained on conviction for manslaughter, attempted murder or wounding with intent to do grievous bodily harm. Upon reaching 18, a person subjected

to a life sentence while under 18 may be transferred to a prison.²²¹

Detention at the State's pleasure: a person convicted of murder where the offence was committed while the person was under 18, cannot be sentenced to death but must be sentenced to be “detained during the State's pleasure” at a place and in conditions to be directed by the requisite Minister. A judge cannot specify the period of detention.²²²

- Number of children sentenced under this provision: 2 children in 1999 and 3 in 2000.²²³

Tuvalu

Life imprisonment with no limitations on the basis of age: life imprisonment is prescribed for a large number of offences in the Penal Code and no limitations are stated for persons under 18. The sentence is mandatory for treason, instigating invasion, piracy and murder.²²⁴

Uganda

General prohibition on life imprisonment for children: under the Children Act, there is a general rule that the Family and Children Court shall have jurisdiction over criminal charges against persons under 18 years of age, and the maximum sentence of imprisonment that the court can apply is three years detention.

- Exception: there are exceptions to this general rule, however, in relation to offences punishable by death, or where a child is jointly charged with a

person over eighteen years of age.²²⁵ Jurisdiction in relation to children (defined as under the age of 18) for offences punishable by death²²⁶ would presumably be retained by the ordinary courts, and the Penal Code Act does not contain any limitation on the ability for the State to apply life imprisonment or the death penalty to children.

Sentencing practices: It is difficult to establish what the sentencing practices are in Uganda. The Justice Law and Order Sector, a Government launched organisation working on justice reform and human rights, has recognised the perceived “erratic, unscientific and uncertain” sentencing practices in the country and was to launch sentencing guidelines in April 2012, though at the time of writing they had not been published.²²⁷ The JLOS also produces figures on prison populations, but was unable to confirm the number of children in detention generally, or the types of sentences to which they are subject.²²⁸

United Kingdom

Criminal law varies between England, Wales, Scotland and Northern Ireland. Unless labelled as otherwise, comments relate to the law of England and Wales.)

Youth courts and summary jurisdiction: if dealt with in a Youth Court (or other summary jurisdiction) the maximum custodial sentence will be 24 months. Life imprisonment is not possible if a person is sentenced by a Youth Court.

Crown Court: a wider range of sentences are available in a Crown Court (a jurisdiction that is generally

speaking reserved for more serious crimes). Possible sentences are:

Detention or training order a term can be set at between 4 and 24 months.

“Long term detention”: Could include life imprisonment with regards to certain named offences.²²⁹

- Persons under 18 sentenced for offences for which a person over 21 would be sentenced to more than 14 years can be sentenced to a term that does not exceed that for which such an adult would be sentenced. This may include a life sentence.

Sentences for “dangerous offenders”:
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- Detention for life: can be imposed for certain named offences²³¹

- Life would be the maximum sentence for any offence committed by a person aged 10-18 who has been convicted of an offence, other than murder, for which a person aged 21 or over would be eligible for a discretionary life sentence.

- Detention for public protection (DPP): an indeterminate sentence for the purposes of public protection.²³² For the purposes of release, DPP sentences for persons under 18 are treated in many respects as life sentences.²³³

- Repeal: these sentences will be abolished when the relevant Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) come into force,²³⁴ but those already on such sentences continue to be so. The repeal of these sentences is likely to

result in increased use of “extended sentences” (see below).

- Could be applied (i) where a person under 18 is convicted of “a serious offence” (listed violent and sexual offences which, if committed by an adult, would be liable to life sentence, or determinate sentence of ten years or more) and (ii) the court considers that the offender poses a significant risk of serious harm by the commission of further “specified offence” (certain violent and sexual offences)

- The offender would be sentenced to an indeterminate sentence. A tariff period is set as the minimum amount of time to be spent in detention at which point the offender becomes liable to release on licence. If the offender is released on licence, and not recalled, the licence can be brought to an end after ten years if the Parole Board is satisfied that the licence is no longer necessary for the protection of the public. The Parole Board must then direct the Secretary of State to make an order ceasing the effect of the licence

- The sentences have only existed since 1997, so it is not clear what the long term prospects are of those subject to them, but it is theoretically possible for an DPP sentence to last for life. The provisions will be repealed by the LASPO Act, but persons currently serving such sentences will continue to do so.

- Criticism of IPP sentences (the adult equivalent of DPP): the Sainsbury Centre published figures in 2008²³⁵ which demonstrated that half of those on IPP sentences were suffering from problems with emotional well-being

(higher than that for those serving life sentences). Indeterminacy of the sentence was found to have a damaging effect on personal relationships, and offenders found the refusal of parole difficult to cope with (especially when full compliance was forthcoming), access to offender programmes is also difficult for those with mental health problems. There have also been cases (see *Walker v James* [2008]) in which the prison did not offer the resources (appropriate programmes) that would make the offenders eligible for release.

- How many juveniles (aged 10-17 inclusive) are affected: 290 since the relevant legislation came into force. Peak in sentencing in 2008 (70 that year) but fell to 27 in the 12 months ending in September 2011²³⁶

Extended sentence of detention: detention for a fixed term, but extended as a result of the nature of the crime (violent or sexual in nature).²³⁷ The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) repealed and replaced these provisions. Subject to the changes brought in by the LASPO Act, where (i) a specified offence committed; (ii) the court considers there is a significant risk to members of the public of serious harm occasioned by the commission by the offender of further specified offences; (iii) the court is not required by section 226(2) to impose a life sentence; and (iv) if the court were to impose a custodial term, it would be at least 4 years; then (v) the court may impose an extended sentence.²³⁸

- The term served must a custodial term in addition to a further period for which the offender would be subject to a licence

- The extension period must be of such a length “as the court considers necessary for the purpose of protecting members of the public fro serious harm occasioned by the commission by the offender of further specified offences”

- The extension period cannot be longer than 5 years for the specified violent offences nor more than 8 years for the specified sexual offences

Detention at Her Majesty's pleasure (DHMP):

- Powers of Criminal Courts (Sentencing) Act 2000, s. 90: persons convicted of murder, who who were under 18 at the commission of the offence, must be sentenced to be detained during Her Majesty's pleasure

- Detention at Her Majesty's pleasure is considered as a life sentence when considering parole, but has historically been classified as an indeterminate sentence by the judiciary.²³⁹ The starting point (lowest possible term that may be served before parole may be considered) is 12 years (would be 15 years for a person older than 18 years)

- How many juveniles affected (aged 10-17 inclusive): in the 12 months up to Sep. 2011- 382 were subject to DHMP or lengthy sentences for which a person over 21 would be liable to more than 14 years (and other specific offences). This is the lowest figure recorded in the last 10 years, figures have shown a general downward trend since 2002, but have fluctuated.²⁴⁰ The way data is grouped by the Ministry of Justice, however, makes it

difficult to identify how many children are serving DHMP sentences.

- How long is spent in detention: the Ministry of Justice does not maintain statistics on how long persons sentenced to detention at Her Majesty's pleasure spend in detention.²⁴¹

- Scotland: this sentence was renamed to “detention without limit of time” in 1975 and is mandatory for persons under 18 who are convicted of murder.²⁴²

- Northern Ireland: persons under 18 who would be otherwise liable to be sentenced to imprisonment for life or death must instead be sentenced to be detained during the pleasure of the Secretary of State in such a place and under such conditions as the Secretary of State may direct. This penalty can also be imposed where (i) a child is convicted of an offence punishable by more than 14 years for an adult; and (ii) the court is of the opinion that no other method which the case may be dealt with is suitable.²⁴³

Meaning of “life sentence”: a sentence of life imprisonment in English law includes a tariff period, which is the minimum period of detention that a convicted person must serve. When a tariff period has been completed, the offender becomes eligible to be released on licence, but subject to the order of the Secretary of State as directed by the Parole Board. If released, a person subject to a life sentence is referred to as “on licence”, by which it is meant that he or she is subject to certain requirements which may involve supervision or limitations on movement. Should the

requirements of the licence be breached, the person on licence can be “recalled”, that is returned to custody without further conviction. It is comparatively rare for a person on a life sentence to remain in custody for their entire natural life, but all persons on life sentences are subject to detention should they not fulfil the requirements of their licence.

United Republic of Tanzania

Tanzania (mainland)

Note: justice policy varies between mainland Tanzania and Zanzibar, though the approach to juvenile justice is broadly comparable across the two jurisdictions.

Persons aged under 7 years: are exempt from criminal responsibility and cannot be sentenced to life imprisonment.²⁴⁴

Persons aged 7-12 years: can be held criminally responsible if it is found that a child “had capacity to know that he ought not to do the act or make the omission”.²⁴⁵ Persons under 12 cannot be sentenced to imprisonment.²⁴⁶

Persons aged 12-16 years: cannot be sentenced to imprisonment unless “the court considers that none of the other methods in which the case may be dealt with [under relevant legislation] is suitable”²⁴⁷

- There are no provisions that expressly address life imprisonment, nor which set upper limits on terms of imprisonment. It seems that for any offence that would carry a sentence of life imprisonment for a person over 16,

such a sentence could also be applied to a person under 16, though the court would have greater discretion in determining the child's sentence.²⁴⁸

Persons aged 16 years and over: are not specifically addressed by juvenile justice legislation and so, with a small number of exceptions (see murder, below), are subject to the same sentences as adults.

Homicide: the Youth Court cannot dispose of cases of homicide committed by persons under 16, therefore all persons aged under 18 would be subject to the ordinary justice system in relation to homicide offences.

- Murder: a person under the age of eighteen is sentenced to be detained “during the President's pleasure” where they would otherwise be sentenced to death.²⁴⁹

- Manslaughter: carries a maximum term of life imprisonment.²⁵⁰

The meaning of “life imprisonment”: life imprisonment is not defined in the Penal Code, and appears to be excluded from the Parole Board Act 1994.

Vanuatu

Persons aged under the age of 10: cannot be held criminally responsible.²⁵¹

Persons aged 10 to 14: are presumed to be incapable of committing a criminal offence unless it is proved that he or she was able to distinguish between right and wrong and that he

did so with respect to the offence to which he is charged.²⁵²

Persons under the age of 16: can only be sentenced to imprisonment where no other method of punishment is appropriate. The court must give reasons if it chooses to so sentence a child.²⁵³

- No limit is set on the term that such a person could serve, life imprisonment could certainly be applied based on the legislation.

- As of 1997, the State claimed that no child had served such a sentence.²⁵⁴

Persons aged 16-18: no specific protections seem to exist, they are presumably tried as adults. In which case, life imprisonment is a penalty for a number of offences under the Penal Code, including treason, inciting to mutiny, rape, aggravated sexual assault with a child, intentional homicide, killing unborn child, aiding suicide, piracy and hijacking of aircraft.²⁵⁵

The meaning of “life imprisonment”: life imprisonment could mean imprisonment for the rest of a person's life, but an offender serving a life sentence becomes eligible to be considered for parole after serving 8 years of his or her sentence.²⁵⁶

Zambia

Persons age 16-18 (inclusive): can be sentenced to imprisonment.²⁵⁷ The Juveniles Act provides a number of alternatives to detention for persons under 18, but does not restrict the power of the courts to pass any sentence or combination of sentences

which it is empowered to pass under the Juvenile Act or any other Act.²⁵⁸ Since the Penal Code²⁵⁹ provides a large number of offences for which imprisonment for life is a penalty, it would seem that persons under 18 can be sentenced to life imprisonment under this provision.

Meaning of “life imprisonment”: life imprisonment is not defined within the Penal Code, but in the State's ... report to the UN Committee on the Rights of the Child, it reported that “with regard to life imprisonment, there is the possibility of release in that the President can exercise the prerogative of mercy at any time”.²⁶⁰ This statement would imply that life imprisonment is set for a full life term subject to release under the prerogative of mercy.

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- ¹⁵⁰Third and fourth periodic reports of New Zealand to UN Committee on the Rights of the Child (CRC/C/NZL/3-4) [http://www2.ohchr.org/english/bodies/crc/crcs56.htm], para. 100
- ¹⁵¹New Zealand The Sentencing Act 2002 [http://www.legislation.govt.nz/act/public/2002/0009/latest/whole.html], s. 103(2B)
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- ¹⁵³New Zealand Sentencing Act 2002 [http://www.legislation.govt.nz/act/public/2002/0009/latest/whole.html], s. 102
- ¹⁵⁴Ibid. s. 177
- ¹⁵⁵Ibid. s. 102(2)
- ¹⁵⁶Ibid. s. 104(1)
- ¹⁵⁷See New Zealand Sentencing Act 2002 [http://www.legislation.govt.nz/act/public/2002/0009/latest/whole.html], ss. 96A-I
- ¹⁵⁸CRIN, “NIGERIA: Inhuman Sentencing in Nigeria” [http://www.crin.org/violence/search/loseup.asp?infoID=23890]
- ¹⁵⁹Nigeria Children's Rights Act, s. 222
- ¹⁶⁰Nigeria Criminal Procedure Act 1945, s. 419(1)
- ¹⁶¹Ibid. at s. 432(2)
- ¹⁶²Ibid. at s. 368
- ¹⁶³Pakistan Juvenile Justice System Ordinance 2000 [http://www.karachieast.org/decfiles/juvenile.doc]
- ¹⁶⁴Pakistan Control of Narcotic Substances Act [http://www.fmu.gov.pk/docs/laws/Control%20of%20Narcotic%20Substances%20Act.pdf] No. XXV of 1997
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- ¹⁶⁶Pakistan Penal Code [http://www.pakistani.org/pakistan/legislation/1860/actXLVof1860.html], Act No. XLV of 1860
- ¹⁶⁷Papua New Guinea Juvenile Courts Act 1991, s. 15
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- ¹⁶⁹Initial report of Tanzania to the UN Committee on the Rights of the Child (CRC/C/8/Add.14/Rev.1) [http://www2.ohchr.org/english/bodies/crc/past02.htm#27] July 2003, para. 361
- ¹⁷⁰Rwanda Penal Code [http://www.wipo.int/wipolex/en/text.jsp?file_id=221102], art. 77
- ¹⁷¹St Kitts and Nevis, Offences Against the Person Act, s. 3(1)
- ¹⁷²Greene Browne v The Queen [http://www.eccourts.org/judgments/privy_council/1999/GreeneBrowne_v_Queen.pdf], (PC Appeal No. 3 of 1998)
- ¹⁷³Saint Lucia Children and Young Persons Act 1972, s. 3

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- ¹⁷⁵Saint Lucia Criminal Code, ss. 87, 65, 88, 123, 126
- ¹⁷⁶*ibid.* s. 86(9) and (10)
- ¹⁷⁷Initial report of Saint Vincent and the Grenadines to the UN Committee on the Rights of the Child, October 2001 (CRC/C/8/Add.18) [<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G01/450/63/PDF/G0145063.pdf?OpenElement>], para. 128
- ¹⁷⁸*ibid.* at para. 355
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- ¹⁸⁰Samoa, Young Offenders Act 2007 [http://www.paclii.org/ws/legis/consol_act_2010/yoa2007181/]
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- ¹⁸³*ibid.* at s. 94(2)
- ¹⁸⁴Seychelles Penal Code [http://www.wipo.int/wipolex/en/text.jsp?file_id=229502], Ch. 73
- ¹⁸⁵Sierra Leone, Child Rights Act 2007 [<http://www.sierra-leone.org/Laws/2007-7p.pdf>], s. 70 ()
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- ¹⁹¹Singapore Criminal Procedure Code [<http://statutes.agc.gov.sg/aol/search/display/view.w3p?page=0;query=Id:3b4efefc-6d61-43ac-8b1c-8ccd8b86a972%20Depth:0%20Status:published%20Published:25/06/2010;rec=0;resUrl=http://statutes.agc.gov.sg/aol/search/summary/results.w3p?page=0;query=Id%3A3b4efefc-6d61-43ac-8b1c-8ccd8b86a972%20Depth%3A0%20Status%3Apublished%20Published%3A25%2F06%2F2010>], s. 314
- ¹⁹²Singapore Children and Young Persons Act, s. 38
- ¹⁹³Singapore Penal Code [http://www.protectionproject.org/wp-content/uploads/2010/09/Singapore_TIP-provisions.pdf], Cap 224, s. 38
- ¹⁹⁴*ibid.* ss. 304 and 307
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- ¹⁹⁷Lee and Lee Advocates, "The 'Ten or Life' Perplexity in Section 304(a) of the Penal Code- an analysis of Case Law on point" [http://www.leenlee.com.sg/uploads/media/The__Ten_or_Life__Perplexity_in_S304_a__--_Christopher_de_Souza_01.pdf]
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- ¹⁹⁹Solomon Islands Penal Code, s. 200 and Initial report of the Solomon Islands to the UN Committee on the Rights of the Child, July 2002 (CRC/C?51/Add.6) [<http://www2.ohchr.org/english/bodies/crc/past.htm#33>] at para. 420

- ²⁰⁰Solomon Islands Penal Code, s. 14
- ²⁰¹Solomon Islands Penal Code, ss. 48, 49, 50, 52, 54, 80, 137, 157, 199, 200, 262, 267 respectively. Note: abortion is not an offence when carried out to save the life of the prospective mother.
- ²⁰²Solomon Islands Juvenile Offenders Act [http://www.paclii.org/sb/legis/consol_act/joa194.rtf], ss. 12 and 13
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- ²⁰⁶Sri Lanka Penal Code [http://www.lawnet.lk/docs/statutes/cons_stat_up2_2006/indexes/2001Y1V19C.html], s. 75
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- ²⁰⁸Sri Lanka Children and Young Persons Ordinance [http://www1.umn.edu/humanrts/research/srilanka/statutes/Children_and_Young_Persons_Ordinance.pdf], s. 23(1)
- ²⁰⁹Ibid. at s. 23(2)
- ²¹⁰Ibid. at s. 24(2)
- ²¹¹Sri Lanka Penal Code [http://www.lawnet.lk/docs/statutes/cons_stat_up2_2006/indexes/2001Y1V19C.html], s. 53
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- ²¹³Ibid. s. 305(1)
- ²¹⁴Ibid. s. 296(1)
- ²¹⁵Tonga Criminal Offences Act [http://legislation.to/Tonga/DATA/PRIN/1988-018/CriminalOffencesAct.pdf], Cap. 18, ss. 77, 91 and 101
- ²¹⁶Ibid. s. 91(1)
- ²¹⁷Second periodic report of Trinidad and Tobago to the UN Committee on the Rights of the Child, November 2004 (CRC/C/83/Add.12) [http://tb.ohchr.org/default.aspx?Symbol=CRC/C/83/Add.12] paras. 248-250
- ²¹⁸Ibid.
- ²¹⁹Trinidad and Tobago, The Children Act Ch. 46:01, s. 78(2) and (3). See also s. 74(2) for a comparable power for remand imprisonment.
- ²²⁰Second report of Trinidad and Tobago to the UN Committee on the Rights of the Child, November 2004 (CRC/C/83/Add.12) [http://www2.ohchr.org/english/bodies/crc/crcs41.htm#opsa], para. 258
- ²²¹Trinidad and Tobago, Children Act, Chap. 46:01, s. 80
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- ²²³Ibid at p. 343
- ²²⁴Tuvalu Penal Code [http://www.tuvalu-legislation.tv/tuvalu/DATA/PRIN/1990-008/PenalCode.pdf], Cap. 8, ss. 47, 48, 63 and 193
- ²²⁵Uganda Children Act, Ch. 59 (formerly Children Statute), ss. 2 and 93
- ²²⁶Case punishable by death include murder, rape, detention with sexual intent and defilement of a girl under the age of 16 (ss. 118, 124, 134 and 129 of the Uganda Penal Code Act [http://www.wipo.int/wipolex/en/details.jsp?id=5241], Ch. 120 respectively)
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[<http://www.jlos.go.ug/page.php?p=curnews&id=73>] 9 November 2011

²²⁸JLOS, "Third Sector Strategic Investment Plan, 2012/13-2-16/17

²²⁹England and Wales Powers of Criminal Courts (Sentencing) Act 2000 [<http://www.legislation.gov.uk/ukpga/2000/6/contents>], s. 91

²³⁰England and Wales Criminal Justice Act 2003

[<http://www.legislation.gov.uk/ukpga/2003/44/contents>], Ch. 5 (amended)

²³¹England and Wales Criminal Justice Act 2003, s. 226(2) and the Sentencing Act, s. 91

²³²England and Wales Criminal Justice Act 2003 s. 226

²³³England and Wales Crime (Sentences) Act 1997

[<http://www.legislation.gov.uk/ukpga/1997/43/contents>], s. 34(2)(e) provides that for the purposes of Part II Ch. II, "life sentence" includes a sentence of detention for public protection under s. 226 of the Criminal Justice Act 2003

²³⁴England and Wales Legal Aid, Sentencing and Punishment of Offenders Act 2012

[<http://www.legislation.gov.uk/ukpga/2012/10/enacted>], s. 123(b)

²³⁵The Sainsbury Centre for Mental Health, "In the dark: the mental health implications of imprisonment for public protection"

[http://www.centreformentalhealth.org.uk/publications/in_the_dark.aspx?ID=584] 18 September 2008

²³⁶Ministry of Justice Sentencing Tables, December 2011

[<http://www.justice.gov.uk/statistics/criminal-justice/criminal-justice-statistics>]

²³⁷England and Wales Criminal Justice Act 2003, ss. 226 and 228

²³⁸Legal Aid, Sentencing and Punishment of Offenders Act 2012, s.

124 (which will insert s. 226B into the Criminal Justice Act 2003)

²³⁹See *R v. Secretary of State for the Home Department, ex p Venables and Thompson* [<http://www.bailii.org/cgi-bin/markup.cgi?doc=/uk/cases/UKHL/1997/25.html&query=1998+and+AC+and+407&method=boolean>] [1998] AC 407 and *Greene Brown v. the Queen* [2000] 1 AC 45

²⁴⁰Ministry of Justice, "Sentencing tables- September 2011 [<http://www.justice.gov.uk/statistics/criminal-justice/criminal-justice-statistics>]"

²⁴¹Hansard,, HL Deb, 16 November 2011, c170W

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²⁴²Criminal Procedure (Scotland) Act 1975

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²⁴³The Criminal Justice (Children (Northern Ireland) Order 1998, [<http://www.legislation.gov.uk/nisi/1998/1504/part/VI/crossheading/grave-crimes/made>] s. 45

²⁴⁴Tanzania Penal Code [http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/TZA_penal_code.pdf], s. 15

²⁴⁵Ibid.

²⁴⁶Tanzania Children and Young Persons Act [<http://www.lrct.go.tz/download/updated-acts-tanzania/YOUNG.pdf>], Ch. 13, s. 22(1)

²⁴⁷Ibid. s. 22(2)

²⁴⁸Ibid. Part III "Punishment of Juvenile Offenders"

²⁴⁹Tanzania Penal Code [http://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/TZA_penal_code.pdf%20], Cap. 16, s. 26(2)

²⁵⁰ibid. s. 198

²⁵¹Vanuatu Penal Code

[http://www.paclii.org/vu/legis/consolidated_act/pc66/], s. 17(1)

²⁵²ibid.

²⁵³ibid. at s. 38(1)

²⁵⁴Initial Report of Vanuatu to the UN Committee on the Rights of the Child, May 1997 (CRC/C/28)

[<http://www2.ohchr.org/english/bodies/crc/past02.htm#22>] para 195

²⁵⁵Vanuatu Penal Code

[http://www.paclii.org/vu/legis/consolidated_act/pc66/], ss. 59, 60, 91, 97A, 106, 113, 116, 145 and 146 respectively

²⁵⁶Vanuatu Correctional Services Act

[<http://www.qp.gov.sk.ca/documents/English/Statutes/Statutes/C39-1.pdf>], s. 51(3)

²⁵⁷Zambia Juveniles Act

[http://www.saflii.org/zm/legis/consolidated_act/ja129/], ss. 73(1)(j) and 2

²⁵⁸ibid. s. 73(23).

²⁵⁹Zambia Penal Code

[http://www.saflii.org/zm/legis/consolidated_act/pca87/]

²⁶⁰Zambia Initial report to the UN Committee on the Rights of the Child, November 2002, (CRC/C/11/Add.25)

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