

DEATH PENALTY: Submission for the UN Secretary-General's report to the Human Rights Council on the question of the death penalty.
Child Rights International Network (CRIN), 16 April 2015.

CRIN is campaigning for the abolition of inhuman sentencing of children, defined to include the death penalty, corporal punishment and life imprisonment. We want to emphasise that while, for the purposes of this campaign, CRIN is calling for the abolition of the juvenile death penalty, we believe that the death penalty should be abolished for all individuals, regardless of age.

CRIN notes that the focus of this supplement to the quinquennial report on capital punishment focuses on "the consequences arising at various stages of the imposition and application of the death penalty on the enjoyment of human rights of those facing the death penalty and other affected persons". The death penalty for an offence committed while under the age of 18 is always a clear violation of the rights of the child regardless of the specific circumstances. As the prohibition on the death penalty for child offenders is so clear, this submission will focus on the abolition of the death penalty, albeit within the broader context of children's rights.

While we welcome the abolition of, or moratoria on, the death penalty, we are concerned that this can lead to an increase in sentences of life imprisonment for children. As recognised by the UN Special Rapporteur on torture in March 2015, life imprisonment of children is also a form of cruel and inhuman punishment¹ and so when the death penalty is abolished for children, the alternative must not be life imprisonment.

We welcome the inclusion in the Secretary-General's 2014 report of the recommendation that States must abolish the death penalty for all offences committed while under the age of 18 and avoid sentencing children to life imprisonment as an alternative to the death penalty.² We urge the Secretary-General to continue to address abolition of the death penalty for children in line with related human rights standards, particularly with regards to the prohibition on life imprisonment for children. In this respect, the abolition of the death penalty for child offenders must be seen as a step towards establishing a rights compliant juvenile justice system.

¹ Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 5 March 2015, A/HRC/28/68, para. 74. Available at:

www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session28/Documents/A_HRC_28_68_E.doc.

² Report of the Secretary-General on the question of the death penalty, 30 June 2014, A/HRC/27/23, para. 74. Available at:

www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session27/Documents/A_HRC_27_23_ENG.doc.

Legality of the juvenile death penalty

Our research indicates that in 16 countries, capital punishment for children remains on the statute books or is carried out despite being prohibited.³

Only a handful of States are known to have executed a juvenile in recent years. However, as long as the sentence remains a possibility in national law, children run the risk of being executed should the situation in a given country change.

This possibility was realised in **Pakistan** at the end of 2014, when the State revoked its unofficial moratorium on the death penalty which had been in place since 2008. The moratorium was initially lifted for terrorism-related offences in December 2014, but in March of this year it was announced that it will be lifted completely for all types of offences.⁴ At least one presumed child offender has already been executed⁵ and many more continue to be at risk of imminent execution.⁶

In April 2014 the **Maldives** adopted a new regulation which, in conjunction with the Penal Code 2014, had the effect of overturning a moratorium that had been in place for over 60 years.⁷ The regulation allows the imposition of the death penalty through lethal injection for the offences of premeditated murder and intentional homicide when such a sentence is delivered by the Supreme Court.⁸ The age of criminal responsibility in the country is seven years old for *hadd* offences (theft, fornication, adultery, consumption of alcohol, and apostasy) and 10 years old for all other offences.

Brunei Darussalam passed legislation in May 2014 that will reintroduce the death penalty for offences committed by child offenders if it enters fully into force. The Syariah Penal Code Order includes provisions that would allow children as young as 15 to be stoned to death for murder, adultery, robbery in which murder is committed, rape, homosexual intercourse between males and anal intercourse between a male and a woman who is not his wife. For

³ Brunei Darussalam, Egypt, India (Jammu and Kashmir), the Islamic Republic of Iran, the Lao People's Democratic Republic, Malaysia, the Maldives, Mauritania, Nigeria, Pakistan, Qatar, Saudi Arabia, Somalia, Tonga, the United Arab Emirates and Yemen.

⁴ See Pakistan today, 'Death penalty moratorium lifted completely', 10 March 2015. Available at: <http://www.pakistantoday.com.pk/2015/03/10/national/death-penalty-moratorium-lifted-completely/>.

⁵ See Amnesty International, 'Juveniles amongst 12 prisoners executed overnight in Pakistan', 17 March 2015. Available at: <https://www.amnesty.org/en/articles/news/2015/03/12-prisoners-hanged-in-pakistan/>.

⁶ See Justice Project Pakistan and Reprieve, 'Juveniles on Pakistan's Death Row', March 2015. Available at: http://www.reprieve.org.uk/wp-content/uploads/2015/03/2015_03_17_PUB-Juveniles-on-Pakistans-Death-Row.pdf.

⁷ See UN News Centre, 'Maldives should repeal new regulation providing for death penalty, says UN rights office', 29 April 2014. Available at: <http://www.un.org/apps/news/story.asp?NewsID=47680>.

⁸ See Minivan News, 'Death penalty can be implemented starting today: Home Minister', 27 April 2014. Available at: <http://minivannews.com/politics/death-penalty-can-be-implemented-starting-today-home-minister-83666>.

several forms of apostasy, capital punishment would be lawful without a lower age limit.⁹ In April 2014, the Sultan of Brunei announced that these provisions would be gradually implemented over the following three years.¹⁰ To date, the death penalty provisions have not entered into force. The second phase of the implementation of the Code is scheduled for the end of 2015. Guidance produced on the Code indicates that Chapters I, II and III of Part IV of the Code will be implemented in the third or fourth quarters of 2015. This section includes provisions that would authorise the death penalty for offences committed while under the age of 18, though the same publication indicates that the death penalty provisions would not be implemented until the third or fourth quarters of 2016.¹¹

Sentences and executions between 1 April 2014 to 31 March 2015

Evidence emerged of at least 14 executions of child offenders globally in the period between 1 April 2014 and 31 March 2015.

In **Iran** 13 executions have been recorded during this period. Five executions reportedly took place in April 2014. Three men convicted of murder allegedly committed when they were aged 14, 16 and 17 were executed by hanging on 17 April in the Bandar Abbas prison.¹² Among a group of six Afghan persons executed for drug-related offences on that day in Isfahan prison was a 15-year-old boy, who was reported to have had no access to a lawyer during his trial.¹³ On 20 April, a man was hanged for a murder committed when he was 16 years old.¹⁴ His punishment for the crime was determined under the Islamic law doctrine of *qisas* (retribution in kind). On 10 June another execution of a juvenile offender took place in Tabriz prison.¹⁵

⁹ For full details of the reforms to be introduced, see CRIN, *Brunei Darussalam: Inhuman sentencing of children*, May 2014. Available at: www.crin.org/node/23978.

¹⁰ See BBC, "Brunei introduces tough Islamic penal code", 30 April 2014. Available at: <http://www.bbc.com/news/world-asia-27216798>.

¹¹ Guidance produced by Brunei Shell Petroleum. Available at: https://www.bsp.com.bn/main/commercial/files/General_Information/Syariah_Penal_Code_Order_Summary_Final.pdf.

¹² See Iran Human Rights, 'Three juvenile offenders executed in southern Iran', 18 April 2014. Available at: <http://iranhr.net/2014/04/three-juvenile-offenders-executed-in-southern-iran/>.

¹³ See OHCHR website, 'Iran: Execution of juvenile offenders breaches international law – Pillay', 26 June 2014. Available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14780&LangID=E>.

¹⁴ See Iran Human Rights, 'Juvenile Offender Executed in Northern Iran- Four Juvenile Executions in Four Days', 22 April 2014. Available at: <http://iranhr.net/2014/04/juvenile-offender-executed-in-northern-iran-four-juvenile-executions-in-four-days/>.

¹⁵ See Stop Child Executions, 'Another Juvenile Execution in Iran', 4 July 2014. Available at: <http://www.stopchildexecutions.com/news-and-updates/258-amir-sardhaei-executed.html>.

Three executions were reported in August. One was in relation to drug-trafficking offences committed by a 17-year-old - the man was executed at the age of 19 on 9 August 2014.¹⁶ On 13 and 25 August two persons were executed following convictions for murder committed when they were aged 18¹⁷ and 17¹⁸ respectively. Again in Tabriz prison, an 18-year-old was reportedly hanged on 19 October¹⁹ and another minor on 25 November 2014.²⁰ On 25 October a woman was reportedly executed in Tehran's Evin prison after being convicted of murder.²¹ At the age of 17 she was convicted of killing her 'husband' to whom she was forced to marry at 14 and who is said to have abused and raped her.²²

To date, reports of one execution have emerged in 2015. On an unconfirmed date in February 2015 a young man is reported to have been executed for the offences of "enmity against God" and "corruption on Earth" committed when he was aged 17.²³ A false confession extracted from him through torture was admitted as evidence at his trial.²⁴

According to a report published by Iran Human Rights, there are currently about 160 juvenile offenders on death row in Iranian prisons.²⁵ In December 2014 Iran's Supreme Court issued a ruling that allows all individuals currently on death row for crimes committed when they were under the age of 18 to submit a petition for judicial review under Article 91 of the Islamic Penal

¹⁶ See Iran Human Rights, 'Four Executions in Northern Iran- Five Prisoners Executed in Baluchestan', 10 August 2014. Available at:

<http://iranhr.net/2014/08/four-executions-in-northern-iran-five-prisoners-executed-in-baluchestan/>.

¹⁷ See Human Rights Activists News Agency news report. Available in Farsi at:

http://iranhrdc.org/files/pdf_fa/Executions/22-Mordad-1393-Birjand-Hrana.pdf.

¹⁸ See Kurdistan News Agency report. Available in Farsi at:

http://iranhrdc.org/files/pdf_fa/Executions/4-Shahrivar-1393-Kermanshah-Kurdpa.pdf.

¹⁹ See Death Penalty News, 'Iran: Juvenile offender Fardin Jafarian executed in Tabriz Central Prison', 21 October 2014. Available at:

<http://deathpenaltynews.blogspot.co.uk/2014/10/iran-juvenile-offender-fardin-jafarian.html>.

²⁰ See Campaign to Defend Civil and Political Prisoners in Iran news report. Available in Farsi at:

http://iranhrdc.org/files/pdf_fa/Executions/9-Azar-1393-Tabriz-Kampain.pdf.

²¹ See The Jurist, 'UN rights expert 'shocked' over Iran woman's execution', 28 October 2014. Available at: <http://jurist.org/paperchase/2014/10/un-rights-expert-shocked-over-iran-womans-execution.php>.

²² See OHCHR website, 'Iran: Execution of juvenile offenders breaches international law – Pillay', 26 June 2014. Available at:

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14780&LangID=E>. Also see The Guardian, 'Iranian child bride faces execution for killing the man she was forced to marry', 19 June 2014. Available at: <http://www.theguardian.com/world/2014/jun/19/iran-child-bride-faces-execution>.

²³ See Iran Human Rights, 'Juvenile Offender Saman Naseem Was Executed', 20 February 2015. Available at: <http://iranhr.net/2015/02/unofficial-report-saman-naseem-was-executed-yesterday/>.

²⁴ See Amnesty International, 'Iran: Juvenile offender to be executed in a week gives harrowing torture account', 13 February 2015. Available at:

<https://www.amnesty.org/en/articles/news/2015/02/iran-juvenile-offender-to-be-executed-in-a-week-gives-harrowing-torture-account/>.

²⁵ See Iran Human Rights, 'Annual Report on the Death Penalty in Iran - 2014', p. 25. Available at: http://iranhr.net/wp-content/uploads/2015/03/Rapport_2014_BDEF02.pdf.

Code. However, such petitions made by the lawyer of the person executed in February this year were rejected or left unanswered.²⁶

At least one juvenile offender is among those executed in **Pakistan** since the lifting of the moratorium. A man convicted of terrorism-related offences allegedly committed when he was 16 was hanged on 17 March 2015.²⁷ He was sentenced to death in 1999 by an anti-terrorism court for allegedly killing a man during a robbery. Despite not being a terrorist or having any affiliation with a terrorist organisation, the court did not consider the issue of juvenility at any stage of the proceedings.²⁸

In another case, a 30-day stay of execution was granted to a young man who was sentenced to death at the age of 14 after enduring nine days of police torture.²⁹ The stay followed international pressure to halt the execution and to investigate the young man's age and conviction.³⁰ The stay will expire on 19 April 2015 after the current submission is written and it is unclear what the man's fate will be. There have been reports that Pakistani government investigators tasked with investigating whether he was in fact a juvenile at the time of the offence have confiscated and tampered with evidence relating to the case after his legal team produced evidence regarding his age, including a birth certificate.³¹ It is estimated that there may be as many as 800 people convicted of crimes committed when they were children currently on death row in Pakistan.³²

In May 2014 in **Saudi Arabia** a young man was sentenced to death in relation to his participation at mass pro-democracy protests in February 2011.³³ He was 17 when arrested and reports have emerged that he was tortured to extract a confession.³⁴ Later his father was

²⁶ See Human Rights Watch, 'Iran: Halt Execution of Child Offender', 10 February 2015. Available at: <http://www.hrw.org/news/2015/02/10/iran-halt-execution-child-offender>.

²⁷ See Amnesty International, 'Juveniles amongst 12 prisoners executed overnight in Pakistan', 17 March 2015. Available at: <https://www.amnesty.org/en/articles/news/2015/03/12-prisoners-hanged-in-pakistan/>.

²⁸ See CRIN, 'Children in Court CRINmail', 23 March 2015. Available at: <https://www.crin.org/en/home/what-we-do/crinmail/children-court-crinmail-46#D>.

²⁹ See Justice Project Pakistan Press Release, 22 March 2015. available at: <http://us3.campaign-archive1.com/?u=4d452280bc016abdd37a94bc6&id=bc0369c620>.

³⁰ See OHCHR website, 'UN experts urge Pakistan not to execute juveniles', 20 March 2015. Available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15729&LangID=E>.

³¹ See Reprieve, 'Government investigators hide death-row man's records', 14 April 2015. Available at: <http://www.reprieve.org.uk/press/government-investigators-hide-death-row-mans-records/>.

³² Justice Project Pakistan and Reprieve, 'Juveniles on Pakistan's Death Row', March 2015. Available at: http://www.reprieve.org.uk/wp-content/uploads/2015/03/2015_03_17_PUB-Juveniles-on-Pakistans-Death-Row.pdf.

³³ See BBC News, 'Shia activists sentenced to death in Saudi Arabia', 28 May 2014. Available at: <http://www.bbc.co.uk/news/world-middle-east-27601042>.

³⁴ See Amnesty International UK Press Release, 'Saudi Arabia: death sentence against leading Shi'a cleric is 'shocking'', 15 October 2014. Available at: <http://www.amnesty.org.uk/press-releases/saudi-arabia-death-sentence-against-leading-shia-cleric-shocking>.

also sentenced to death.³⁵ There are reports that one juvenile has been executed in 2015 on an unspecified date.³⁶

In the **Maldives**, two people have been sentenced to death by the Juvenile Court for crimes committed under the age of 18, according to a report by Amnesty International.³⁷

In 2014, President Hadi announced the creation of a council to review all cases of alleged juveniles sentenced to death in **Yemen**.³⁸ In October 2014, the European Union and UNICEF issued a joint statement indicating that 60 cases were either under appeal or being considered by the council.³⁹ The current political and security situation in the country has made it impossible for CRIN to access up-to-date information on the number of child offenders currently on death row in Yemen.

In **Egypt**, reports have emerged of at least two young men being sentenced to death for offences allegedly committed while under the age of 18. In August 2014, the death sentence of a 16-year-old boy was overturned.⁴⁰ In January 2015, news emerged of a 17-year-old boy being sentenced to death alongside 36 men. At the time of writing, CRIN was unable to ascertain any progress in his case.⁴¹

A juvenile offender was released on 19 March 2015 after the Sultan of the Johor region of **Malaysia** granted him full pardon.⁴² The person, who is now 28 years old, was convicted of a murder which was committed in 2004.

³⁵ See SI-akhbar, 'Saudi Arabia sentences Sheikh Nimr to death', 15 October 2014. Available at: <http://english.al-akhbar.com/node/22019>.

³⁶ See Arabian Business website, 'Saudi Arabia executes 54 people in first 3 months of 2015', 9 April 2015. Available at: <http://m.arabianbusiness.com/saudi-arabia-executes-54-people-in-first-3-months-of-2015-588431.html>.

³⁷ Amnesty International Report 2014/2015, 'State of the World's Human Rights', February 2015, at p. 241. Available at: <https://www.amnesty.org/en/documents/pol10/0001/2015/en/> and Amnesty International, 'Death Sentences and Executions in 2014', p. 35. Available at: https://www.amnesty.org.uk/sites/default/files/death_sentences_and_executions_2014_en.pdf.

³⁸ The death penalty is prohibited by Article 31 of Republican Decree, Law No. 13 of 1994 concerning criminal penalties. However, in practice child offenders continue to be sentenced to death as a result of inadequate birth registration and age determination procedures. For more information on the relevant laws, and practices, see CRIN, *YEMEN: Inhuman sentencing of children*, March 2011, available at: www.crin.org/node/30439; and *YEMEN: UPR submission on inhuman sentencing*, October 2013, available at: www.crin.org/node/32235.

³⁹ EU-UNICEF op-ed: Joining force against juvenile death penalty in Yemen, 10 October 2014. Available at: http://eeas.europa.eu/delegations/yemen/press_corner/all_news/news/2014/20141010_1_en.htm.

⁴⁰ Al-Watan News report, available in Arabic at: <http://www.elwatannews.com/news/details/547237>.

⁴¹ Al Masry al-Youm news report, available in Arabic at: <http://www.almasryalyoum.com/news/details/644646>.

⁴² See The Malaysian Insider, 'Johor sultan pardons prisoner, commutes death sentence for 10 others – Bernama', 23 March 2015. Available at: <http://www.themalaysianinsider.com/malaysia/article/johor-sultan-pardons-prisoner-commutes-death-sentence-for-10-others-bernama>.

In **Nigeria** in June 2014, the Court of Appeal in Lagos acquitted two people sentenced to death as juveniles for armed robbery over 10 years ago.⁴³ The two were wrongly tried as adults, instead of having the case against them heard in a Juvenile Court. However, in an ongoing criminal trial, the state is seeking the death penalty for a 14-year-old girl accused of killing her 'husband'.⁴⁴

⁴³ See Channels Television, 'Two Juveniles On Death Row In Lagos Set Free', 26 June 2014. Available at: <http://www.channelstv.com/2014/06/26/two-juveniles-death-row-lagos-set-free/>.

⁴⁴ See The Guardian, 'Is there hope for the child bride accused of murder in Nigeria?', 22 December 2014. Available at: <http://www.theguardian.com/global-development-professionals-network/2014/dec/22/is-there-hope-for-the-child-bride-accused-of-in-nigeria>.