

Inhuman sentencing of children in Libya

Briefing for the 22nd session of the Human Rights Council's Universal Periodic Review in May 2015, submitted by the Child Rights International Network (CRIN), (www.crin.org), September 2014.

Inhuman sentencing of children in Libya

1. Capital punishment and life imprisonment are unlawful as judicial sentences for child offenders, but corporal punishment is lawful.
2. The main laws governing juvenile justice are the Criminal Code 1953, the Code of Criminal Procedure, the Great Green Document on Human Rights 1988 (incorporated in the Promotion of Freedom Act 1991) and the Constitution 1969. The Criminal Code sets the minimum age of criminal responsibility at 7.¹
3. A draft new Penal Code was under discussion in 2007. To our knowledge, this has not yet been adopted.

Legality of inhuman sentencing

Death penalty

4. Capital punishment is unlawful as a sentence under the criminal law. Article 81 of the Criminal Code prohibits the imposition of the death penalty on persons under 18. Where a young person aged 15 to 17 commits a crime punishable by death, the sentence is commuted to a term of not less than five years' imprisonment. Principle 8 of the Great Green Document on Human Rights states: "The sons of Jamahiri society revere and preserve human life. The aim of Jamahiri society is to abolish the death penalty...."

Corporal punishment

5. Corporal punishment is lawful as a sentence. There is no explicit prohibition of its imposition on child offenders. Article 2 of the Declaration on the Establishment of the Authority of the Peoples (1977) states that "the Holy Quran is the Constitution of the Socialist People's Libyan Arab Jamahiriya", and amendments to the Penal Code introduced *hadd* punishments into state legislation in the 1970s. Flogging and amputation may be ordered under Law No. 70 (1973) concerning sexual offences, Law No. 13 (amended 1995) concerning theft and armed robbery, Law No. 52 (1974) concerning sexual slander, and possibly the Law on Prohibition (1973) relating to alcohol consumption and the Law on Homicide (1973).

6. As at 2007 a new draft Criminal Code was under discussion. We have no information regarding its provisions in relation to corporal punishment of children.

Life imprisonment

7. A young person under 18 may not be sentenced to life imprisonment.

8. Article 81 of the Criminal Code states that where a young person aged 15 to 17 commits an offence punishable by life imprisonment, the sentence is commuted to a term of not less than five years' imprisonment, but it appears that no maximum period is specified. The Government has stated that a person aged 15-17 convicted of an offence may seek a two-thirds reduction in sentence.²

International human rights mechanisms

9. During the first cycle of the Universal Periodic Review in 2010, the Czech republic and Switzerland recommended that the State abolish corporal punishment.³

10. In 2003, the UN Committee on the Rights of the Child recommended that Libya abolish flogging as a

¹ Articles 80, 150, 151

² 19 September 2002, CRC/C/93/Add.1, Second state party report to the Committee on the Rights of the Child, para. 318

³ Report of the Working Group on the Universal Periodic Review : Libyan Arab Jamahiriya, A/HRC/WG.6/9/L.13, 15 November 2010.

punishment;⁴ in 1999, the UN Committee Against Torture recommended that the State abolish corporal punishment in law;⁵ and in 2007, the Human Rights Committee recommended that the State “should immediately stop the imposition of all corporal punishment and repeal the legislation for its imposition without delay”.⁶

The review of Libya by the members of the Human Rights Council

11. In light of the clear international human rights consensus against the imposition of capital punishment, life imprisonment and corporal punishment of child offenders and the specific recommendations made to Libya by the Committee on the Rights of the Child, the Committee Against Torture and the Human Rights Committee and during the first cycle of the Universal Periodic Review, we hope that the members of the Human Rights Council will urge the government of Libya to:

- Explicitly prohibit and enforce prohibitions on corporal punishment for persons under 18 years of age in Libya, under all systems of justice and without exception to ensure full compliance with international standards.
- Raise the minimum age of criminal responsibility.
- Provide disaggregated data about sentences handed down to children by offence committed and date, as well as information about children in detention, including gender, age and length of time spent in pre-trial detention in each case.

12. To read CRIN’s detailed report on Inhuman Sentencing of Children in Libya, visit:

<https://www.crin.org/en/library/publications/libya-inhuman-sentencing-children>

⁴UN Committee on the Rights of the Child, *Concluding observations on the second periodic report of Libya*, CRC/C/15/Add.209, 4 July 2003, para. 46.

⁵UN Committee Against Torture, *Concluding observations on the third periodic report of Libya*, A/54/44, 11 May 1999, paras. 176 to 189.

⁶UN Human Rights Committee, *Concluding observations on the fourth periodic report of Libya*, CCPR/C/LBY/CO/4, 15 November 2007, paras. 16 and 17.