

End Inhuman Sentencing of Children: Advocacy Toolkit

This kit is intended to provide advocacy ideas to organisations or individuals in States which are still subjecting children to inhuman sentencing.

If you want any advice or support with advocacy, e-mail us at info@crin.org

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Note: please note that this advocacy toolkit is a work in progress. We welcome feedback, submissions and comments. See page 12 for contact details.

1. First steps

CRIN has identified at least **40 States** in which children are still being sentenced to death, to life in detention and/or to corporal punishment. The States are listed [here](#). If you believe your State is using inhuman sentencing, but is not on the list, please contact us with details info@crin.org.

If you are in, or involved with one of the States on the list, please read and comment on the CRIN [State report](#) and fill in the CRIN [questionnaire](#). This will identify:

How much is known about inhuman sentencing in your State; What research is needed; Who, if anyone, is already involved in advocacy on the issue.

2. Safety

If you believe that conditions in your country are such that involvement in advocacy against inhuman sentencing could put yourself or others at risk, consider contacting CRIN to discuss what forms of external pressure, from regional or international organisations, could help.

→ You can also visit our page about internet safety [here](#) to get tips on how to circumvent restrictions to using media for your campaign work.

→ A number of prominent international human rights experts have already expressed their support for the campaign, you can use their quotes, see [here](#).

3. Working collectively

If you know of other individuals/organisations in your State who are already involved in advocacy against inhuman sentencing, consider calling, or encouraging others to call, an initial meeting.

An initial meeting in your State could discuss the following:

1. [How to make inhuman sentencing of children more visible](#)
2. [Which organisations and individuals should be involved in a national campaign; who should lead/coordinate](#)
3. [How to ensure that all those involved in inhuman sentencing and the carrying out of the sentences know that there are human rights obligations to protect children from them.](#)

4. [How to maximise pressure from international and regional human rights mechanisms](#)

3.1. How to make inhuman sentencing of children more visible

Once visible, advocacy to have it prohibited should become easier.
Review existing information on the use of inhuman sentencing:

- Are there any published statistics on sentencing of children?
- Which ministries or departments of government are responsible?
- Where does inhuman sentencing take place: which courts have powers to sentence children?
- In which institutions are children threatened with inhuman sentencing held pre-trial?
- Where are executions carried out?
- Where are children sentenced to life imprisonment held?
- Where are sentences of corporal punishment carried out?

If the answers are not known, how can this information be found:

→ **Government**

Letters to relevant government ministers and officials;

→ **Parliament**

- **Parliamentary questions:**

All parliaments/legislative assemblies have procedures allowing members to ask questions of ministers. If you do not know which members will be prepared to ask questions about this issue, you could consider checking through reports of parliament.

The parliamentary library may be able to help you with identifying interested members or finding reports of previous relevant debates.

- **Encouraging parliamentary inquiries:**

In most parliaments there are specialist committees of members, on justice issues, children's issues, human rights: consider writing to the chair of relevant Committees proposing an inquiry or other action on inhuman sentencing of children.

→ **Research institutions**

Are there national research or statistical bodies or academic institutions which may have information on inhuman sentencing?

→ **Media**

Have you tried an internet search for media coverage of inhuman sentencing?

Are there contacts working on national newspapers who could search for relevant coverage?

Are there crime reporters or court reporters who or news agencies which could be contacted for information?

→ **Professionals and others involved**

Various adults will be involved in the process leading up to inhuman sentencing: police, social workers, defence lawyers, court officials and those involved directly in detaining children pre- and post-trial, including governors, administrators, prison officers/wardens, any inspectors or prison visitors etc.

- Are there associations or unions through which any of these people could be contacted and asked for information, or other ways of contacting them individually?

Judges and/or magistrates and court clerks and officials will be involved in the sentencing.

- Are there ways of contacting them (or recently retired people) for information? Doctors will be involved in examination of children prior to or during inhuman sentencing (read more on [involving medical practitioners](#)).

Personal testimonies

It is very important to try to get early warning of court cases likely to end in inhuman sentencing of children: will any of these or other groups help with this?

It is very important to get details of individual cases of inhuman sentencing, both to provide material for advocacy and to identify individual victims who might be interested in legal action to challenge inhuman sentencing. If you need more details on legal actions, contact us at info@crin.org.

Are there ways of contacting parents or friends of children who are or may become victims of inhuman sentencing: for example handing out leaflets outside prisons or detention centres where children are known to be held, on visiting days; systematically contacting lawyers who act in defence of children in the relevant courts.

3. 2. Which organisations and individuals should be involved in a national campaign; who should lead/coordinate

Challenging inhuman sentencing may be more effective if an alliance of concerned organisations/individuals can be formed. The alliance could be developed by circulating a position statement for organisations/individuals to sign up to – see [box](#).

Safety: As noted [earlier](#), in States where this sort of collective action may put individuals or organisations at risk, consider discussing with CRIN what forms of regional or international pressure may be possible to challenge inhuman sentencing of children.

DRAFT POSITION STATEMENT

AN ALLIANCE TO END INHUMAN SENTENCING OF CHILDREN

Sentencing children to death, to life imprisonment and to corporal punishment has been consistently denounced as a violation of human rights by United Nations Treaty Bodies and Special Procedures and by regional human rights mechanisms. The UN Study on Violence Against Children of 2006 further reiterated States' obligations to end these inhuman forms of sentencing of children.

We understand that in [*name of State*] legislation still authorises sentencing of children, in some circumstances to [*details of forms of inhuman sentencing believed to be still authorised*].

We the undersigned call on our government and parliament [*other authorities*] to immediately cease these practices which are in conflict with [*name of State*]'s human rights obligations and use the earliest opportunity to remove any authorisation of such punishment.

Signed

...

These are categories of organisations that could be invited to join the Alliance:

- NGOs working on children's rights or children's issues
- International NGOs working on children's rights or children's issues
- Relevant UN agencies working in the State – UNICEF, OHCHR, UNODC, etc.
- National human rights and ombudspersons institutions
- Human rights, justice and equality organisations
- Penal reform organisations
- Faith groups
- Child and youth groups
- Academic or educational organisations (universities, schools, etc.)
- Professional associations, such as medical practitioners or paediatricians, unions, associations of legal professionals, unions, etc.

And sympathetic prominent individuals could be invited to join, for example:

- Parliamentarians
- Respected media commentators
- Actors, artists, musicians
- Sports figures
- Religious leaders
- Traditional/community leaders
- Other

3.3. How to ensure that all those involved in inhuman sentencing and in the carrying out of the sentences know that there are human rights obligations to protect children from them

Safety tip: *Again, if disseminating this information in the State could place individuals or organisations at risk, discuss with CRIN whether there are ways of disseminating information from international organisations.*

Letters or a short leaflet could be prepared and distributed to all those identified [above](#) as involved in inhuman sentencing. They should go to relevant ministers and officials in government and to parliamentarians as well.

Useful resources

- Example of [model letter](#)
- Examples of national campaigns: [Pakistan](#) / [United States](#)

- Paper on [human rights standards](#) and inhuman sentencing

3.4. How to maximise pressure from international and regional human rights mechanisms

If there are existing recommendations to prohibit and end inhuman sentencing from Treaty Bodies or the UN Universal Periodic Review (UPR), etc. (see [State reports](#) for details), have they been effectively used to encourage the government/parliament to take action? What more can be done?

Checklist of possible actions

- Form an alliance within your country
- Draft a position paper
- Lobby your government to have the issue of inhuman sentences on their agenda
- Identify individuals within the government/parliament who will support the campaign
- Organise a press conference to launch your campaign and invite representatives from the media, civil society and the government
- Submit an alternative report to the different Treaty Bodies of the UN. See more details [below](#).
- Follow up on the recommendations made by the Treaty Bodies to prohibit and end inhuman sentencing.

Using the United Nations Mechanisms

The below checklist gives general information on the treaty bodies you could report to and the relevant articles that you can use for your advocacy. For more details on Human Rights Standards in Inhuman Sentencing, go [here](#).

The Treaty Bodies of the United Nations are committees composed of independent experts. They are responsible for monitoring how 'States parties' (i.e. those States that have ratified the treaty in question) implement the treaty. More about treaty bodies [here](#).

When a country ratifies one of these treaties, it assumes a legal obligation to implement the rights recognised in that treaty. At the same time NGOs can submit 'alternative reports' to monitor the progress made by the State regarding each treaty. See also our [toolkit](#) on using mechanisms for children's rights.

- **The committee on the Rights of the Child**

The Committee monitors the implementation of the [Convention on the Rights of the Child](#). NGOs can submit reports to the Committee **one month** before the review.

Relevant articles when reporting on inhuman sentences:

Article 1- Definition of a child

Article 3 - Best interest of the child

Article 6 - Survival and development

Article 37 - Torture and deprivation of liberty

Article 19 - Protection from abuse and neglect

- **Committee Against Torture (CAT)**

The CAT monitors the implementation of the [Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#). States must report initially one year after acceding to the Convention and subsequently every four years. NGOs may submit reports three months before the review.

The CAT may consider individual communications relating to States Parties who have made the necessary declaration under article 22 of CAT.

The Convention gives a clear definition of torture, and specifies measures States must take to prevent torture from occurring.

- **Human Rights Committee (HRC)**

The HRC monitors the implementation of the [International Covenant on Civil and Political Rights](#) by its State Parties. States must report initially one year after acceding to the Covenant and subsequently whenever the Committee requests so (usually every four years). The [First Optional Protocol](#) to the Covenant gives the Committee competence to examine individual complaints with regard to alleged violations of the Covenant by States Parties to the Protocol.

Relevant articles when reporting on inhuman sentences:

Article 6 - on sentencing children to the death penalty

Article 7 - on torture and cruel, inhuman or degrading treatment or punishment

- **Universal Periodic Review (UPR)**

The UPR is a process which involves a review of the human rights records of all 192 UN Member States once every four years. Six to eight months before the review, NGOs can submit alternative reports on the general human rights situation in the country.

→ Check out our advocacy calendar [HERE](#) to find out when your country is due to report and when deadlines are for submitting information. → If you are considering briefing human rights monitoring bodies, or using human rights mechanisms to challenge inhuman sentencing and want further advice, contact CRIN on info@crin.org.

4. Other sections to come

How to use the media: identifying sympathetic journalists (investigative journalists/programmes?), commentators, editors, producers, channels etc., both to publicise the campaign and to pursue and provide information. For now, you can use our [media toolkit](#) for basic information.

How to follow on from initial activities above

How to develop a national strategy to achieve prohibition and elimination of inhuman sentencing - identifying elements, responsibilities, deadlines and checklist of different ways of pursuing advocacy.

How to achieve law reform: Law reform to prohibit all forms of inhuman sentencing of children is essential for the realisation of children's rights. This section will provide information on how to draft legislation and lobby governments or parliament. But keep in mind that law reform should be accompanied by other measures such as comprehensive and sustained awareness-raising.

Encouraging national campaigns to consider how CRIN can support the national campaign and how the national campaign can support the international/regional campaign: for example by updating CRIN on all developments, campaign events, statements, press cuttings, providing feedback on this kit and ideas for other states to use.

5. Examples of successful campaigns

Ending Sentences of Life Imprisonment in South Africa

The Child Justice Act, 75 of 2008 is the result of many years of work by [government and activists](#) in the children's rights and child justice fields. One of the main principles of the Act is to use detention only as a measure of last resort and for the shortest appropriate time.

The Child Justice Alliance, a network of NGOs, community based organisations, academic institutions and individuals, worked to ensure that the Child Justice Bill was passed by the South African parliament. Visit the [Child Justice Alliance](#) to read the different [submissions](#) from NGOs commenting on the draft Bill.

Unfortunately, the new law abolished and replaced laws that regulated sentencing of offenders aged 16 and 17 at the time of the offence. Previously 16- and 17-year-olds were largely exempt from the minimum sentencing provisions that Parliament enacted for serious offences in 1997. The approach of the 2007 Cabinet version of the Child Justice Bill encourages in many ways the [imprisonment for children](#). These sentences include **life imprisonment** or very long jail terms.

In February 2008 the [Centre for Child Law](#) launched an application against the Minister of Justice and Constitutional Development, the Minister of Correctional Services and the Legal Aid Board, challenging the constitutionality of the new provisions. The Centre for Child Law launched the application in its own interest as a organisation dedicated to upholding and protecting children's rights; on behalf of children at risk of being sentenced to serve a minimum sentence and in the public interest as provided for in the Constitution. In a ground-breaking judgement for the rights of children, the Pretoria High Court, declared certain aspects of the minimum sentences legislation to be unconstitutional (in November 2008).

The Centre for Child Law sought confirmation of the order of the High Court in front of the Constitutional Court. The National Institute for Crime Prevention and Reintegration of Offenders (NICRO) applied and was admitted as amicus curiae. NICRO was in support of the confirmation sought by the Centre for Child Law.

The Constitutional Court confirmed the order of the High Court and [put an end](#) to minimum sentencing for children aged 16 and 17.

Did you take part in the campaign to end life imprisonment of juvenile offenders in South Africa? Send us information at info@crin.org

Ending Sentences of Capital Punishment in the United States

As of December 31, 2004, [71 children](#) in the United States were on death row for juvenile crimes ([See case summary of juvenile offenders who were on death row](#)).

In March 2005, the United States Supreme Court [ruled](#) that the death penalty for those who had committed their crimes while under 18 years of age was cruel and unusual punishment, and hence barred by the Constitution (*for more information, see: [Roper v. Simmons Resource Page](#)*).

Prior to this ruling, in *Stanford v. Kentucky*, 492 U.S. 361 (1989), the United States Supreme Court held that the Eighth Amendment to the United States Constitution does not prohibit the death penalty for crimes committed at ages 16 or 17. As a result two state supreme courts have interpreted their own state constitutions to require specific minimum ages regardless of their state death penalty statute or the federal constitutional minimum age:

- Using this state constitutional approach, the Washington Supreme Court set the minimum age at 18 (*State v. Furman*, 858 P.2d 1092 (Wash. 1993): and
- The Florida Supreme Court set the minimum age at 17 (*Brennan v. State*, 754 So.2d 1 (Fla., 1999)).

In *Atkins v. Virginia*, 536 U.S. 304 (2002), the United States Supreme Court held that the United States Constitution prohibits the death penalty for mentally disabled offenders, based upon reasoning closely analogous to juvenile offenders.

The ruling in 2005 was a result of years of advocacy and lobbying by civil society organisations.

For example, [Human Rights USA](#) filed *amicus* briefs with the U.S. Supreme Court in each of the last three cases dealing with the juvenile death penalty issue, which culminated in the Court declaring the execution of juvenile criminal defendants unconstitutional. The briefs focused on the applicability of international human rights standards to legal requirements.

Human Rights Watch had also sent letters to [Governors](#), to the [House of Representatives](#), and even [States](#) to urge them to ban the execution of children who were under age 18 at the time of the offence.

The Juvenile Justice Centre of the American Bar Association had also published a report in 2004 untitled [Cruel and Unusual Punishment: The Juvenile Death](#)

[Penalty - Evolving Standards of Decency](#), looking at the standards employed by the United States Supreme Court in the case of *Atkins v. Virginia*.

Other organisations such as [Amnesty International](#) and the [World Organisation Against Torture](#) expressed their concerns towards the death sentences imposed on juvenile offenders in the United States.

Did you take part in the campaign to end death penalty against juvenile offenders in the United States? Send us information at info@crin.org

Contact us

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