

**DEATH PENALTY: Submission of the UN Secretary General to the Human Rights Council on the Death Penalty**  
**The Child Rights International Network (CRIN), March 28, 2013**

**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 their age.

This submission will focus on the death penalty for children but within the broader context of children's rights. While we would welcome the abolition of, or moratoria on, the death penalty, we are concerned that this leads to an increase in sentences of life imprisonment. Life imprisonment is also a form of cruel and inhuman punishment. When the death penalty is abolished the alternative must not be to sentence children to life imprisonment.

As stated in our submission of last year,<sup>1</sup> we believe that it is important for the Secretary-General to address the death penalty within the wider context of sentencing of children as per the SG's Study on Violence against Children in which the SG recommends that death penalties be suspended and States should take: "appropriate legal measures to convert them into penalties that are in conformity with international human rights standards."<sup>2</sup>

Furthermore, children are often denied the right to defence and legal representation, yet this is a fundamental right, for adults and children. Children left alone without any independent legal counsel are not only deprived of their voice, but are also subject to numerous abuses as they are often intimidated and not aware of their rights. We recommend that States ensure rigorous application of international standards for fair trials in all cases involving juveniles, including the right to legal aid at every stage of the proceedings and the right to be heard. The decisive criteria is the age at the time of the commission of the offence and not the age at the time of the trial or sentencing or of the execution of the sanction.

Children should be kept outside of the criminal justice system and the focus of any measure taken regarding children who have infringed the law should be exclusively on rehabilitation.

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<sup>1</sup> Joint submission of the International Juvenile Justice Observatory, Penal Reform International and CRIN, "Submission to the Report of the UN Secretary-General on the Moratorium of the use of the Death Penalty" 8 June 2012

<sup>2</sup> UN GA Report of the independent expert for the United Nations Study on Violence against Children. 29 August 2006. A/61/299

Sentencing a child to any form of violent sentencing, including imprisonment for excessive periods of time, is not the appropriate response. Article 37 of the CRC explicitly requires deprivation of liberty to be used only as last resort and for the shortest appropriate period of time (article 37 (b)).

The CRC requires that the best interests of the child be a primary consideration “in all actions concerning children”, including those taken by courts of law (article 3 (1)), and that States ensure “to the maximum extent possible the survival and development of the child” (article 6).

In November 2012, the UN General Assembly also passed a resolution calling on states to “ensure that, under their legislation and practice, neither capital punishment nor life imprisonment without the possibility of release, nor corporal punishment is imposed for offences committed by persons under 18 years of age” and encouraged states “to consider repealing all other forms of life imprisonment for offences committed by persons under 18”.<sup>3</sup>

States should therefore review all their sentencing practices with regards to children and ensure they are in line with the UN Convention on the Rights of the Child and other human rights standards.

### **Status of the juvenile death penalty**

Our research indicates no change in the legality of capital punishment for minors since April 2012. In fifteen countries, capital punishment for children remains on the statute books,<sup>4</sup> and in at least seven of those countries, the sentence of death can be imposed through methods such as lethal injection, hanging, shooting or stoning.

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 the Statute of a country, children run the risk of being executed should a situation in a given country change.

### **From death penalty to life imprisonment**

CRIN is concerned by the trend in countries abolishing the death penalty for minors only to commute sentences to life imprisonment, which is also a form of cruel and inhuman punishment. While the death penalty has been abolished for minors in most countries, life imprisonment has often been implemented in its place. Research completed by CRIN in August 2012 indicated that 27 States that had abolished the death penalty for minors subsequently

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<sup>3</sup> UN General Assembly, Sixty-seventh session, Resolution A/c.3/67/L.34, 9 November 2012

<sup>4</sup> Bangladesh, India, Iran, Lao People’s Democratic republic, Malaysia, Maldives, Mauritania, Nigeria, Pakistan, Qatar, Saudi Arabia, Somalia, Tonga, United Arab Emirates and Yemen

introduced in lieu sentences that empowered States to detain children for the rest of their natural lives.<sup>5</sup>

Life imprisonment violates articles 37 (a) of the Convention on the Rights of the Child (CRC), article 5 of the Universal Declaration of Human Rights, article 7 of the International Covenant on Civil and Political Rights and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

### Developments between 1 April 2012 and 31 March 2013

Yemeni law explicitly prohibits the death penalty for persons under 18 but the lack of birth registration and difficulties in determining the age of children, leave this prohibition unenforced and executions of juveniles continue.<sup>6</sup> Hind al-Barti, killed by firing squad in December 2012, is believed to have been 15 years old at the time of her alleged offence. The UN Committee on the Rights of the Child has reported that 21 juvenile offenders were under sentences of death as of December 2012 for offences allegedly committed while they were under the age of 18, and an additional 186 faced charges for which they could be executed. Three of these individuals had their sentences confirmed by the Supreme Court and were considered to be “at great risk of being executed”<sup>7</sup> and Mohammad Abd al-Karim Mohammad Haza’a was subsequently executed for murder, despite concerns that he may have been under 18 at the time of his alleged crime.<sup>8</sup>

Amnesty International reported on the execution of a 21-year-old man in **Iran** in January 2013 for his alleged role in a murder committed during a burglary while he was 17.<sup>9</sup>

In January 2013, **Saudi Arabia** carried out the execution of a woman who was 17 years old when she allegedly killed a baby in her care<sup>10</sup> and seven men were also executed by firing squad for crimes allegedly committed while they were under 18.<sup>11</sup>

In **Iraq**, a boy aged 16 years old when he was taken into custody by US armed forces in 2009 was sentenced to death and moved to death row in December 2012. The sentence was subsequently stayed, but if carried out, the execution would have been the first recorded incidence of capital punishment of a juvenile in Iraq since 1987.<sup>12</sup>

<sup>5</sup> CRIN, “Inhuman sentencing: Life imprisonment in the Commonwealth” 1 August 2012

<sup>6</sup> CRIN, “Yemen: Inhuman Sentencing of Children” 2 November 2010

<sup>7</sup> OHCHR, “UN Committee expresses its deep dismay concerning continuing child executions in Yemen” 12 December 2012

<sup>8</sup> Human Rights Watch, “Yemen: Halt execution of alleged juvenile offender” 8 March 2013 (updated 9 March 2013)

<sup>9</sup> Amnesty International, “Iran executes alleged juvenile offender” 18 January 2013

<sup>10</sup> Human Rights Watch, “Halt execution of Sri Lankan migrant worker” 8 January 2013

<sup>11</sup> RT, “Saudi Arabia executes 7 for juvenile crime despite UN appeal” 13 March 2013

<sup>12</sup> Human Rights Watch: “Halt execution of Yemeni juvenile” 10 December 2012