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RIGHTS OF THE CHILD

**Written statement* submitted by Human Rights Advocates,
a non-governmental organisation in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[12 February 2006]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Juvenile Sentencing

1. Human Rights Advocates submits this statement to address issues of juvenile sentencing, in particular the death penalty, life imprisonment without possibility of release, and juvenile justice models generally.

Death Sentences for Child Offenders

2. Human Rights Advocates (HRA) commends the Commission's leadership role in the progress towards abolition of the execution of child offenders, those convicted of offenses committed when less than 18 years of age. Article 37(a) of the Convention on the Rights of the Child (CRC) and Article 6 of the International Covenant on Civil and Political Rights (ICCPR) both prohibit the execution of child offenders. As a result of almost universal adherence with this norm, the prohibition has reached the level of a jus cogens norm which binds all states.

3. Although 2005 included the end of the United States' death penalty for child offenders, Iran continues to execute child offenders and sentence child offenders to death. In 2005, Iran executed eight child offenders.¹ In January of this year, one child offender was sentenced to death in Iran and another juvenile death sentence was upheld by the Iranian Supreme Court.²

4. We urge Iran to prevent the executions of the two child offenders sentenced to death in January 2006, as well as commute the death sentences of all child offenders. Moreover, we recommend Iran discontinue the practice of sentencing child offenders to death in accordance with their obligations as state parties to the ICCPR and the CRC. We recommend Iran report its progress to the Special Rapporteur on Extra Judicial Killings.

5. Although Saudi Arabia has not reportedly executed a child offender since 1992, Human Rights Advocates is concerned that Saudi Arabia continues to sentence child offenders to death. It is reported that there are presently 126 child offenders sentenced to death in Saudi Arabia.³ Although Saudi law does not permit sentencing of death to children, Saudi judges have the discretion to decide defendant has reached the "age of majority" according to factors such as "assessment of the coarseness of his voice and the appearance of pubic hair" rather than his natural age.⁴ Most recently, 14-year old Ahmad a-D, an Egyptian national was sentenced to death.⁵

6. We urge the Kingdom of Saudi Arabia to commute the death sentence of Egyptian national, Ahmad a-D. Additionally, we recommend that the Commission call on Saudi Arabia to report the status of the law and the 126 child offenders sentenced to death to Ghalia Mohd Bin Hamad Al-Thani, the expert serving as Rapporteur for the recent report

¹ Amnesty International Report, "Juvenile Executions Since 1990," available at <http://web.amnesty.org/pages/deathpenalty-children-stats-eng>.

² Amnesty International Public Statement, "Iran: Amnesty International calls for end to death penalty for child offenders," 16 January 2006. Available at <http://web.amnesty.org/library/print/ENGMDE130052006>.

³ Human Rights Watch Report, "Saudi Arabia: Follow U.N. Call to End Juvenile Death Penalty," 29 January 2006 citing Alarabiya report in November 2005. Available at <http://hrw.org/english/docs/2006/01/29/saudia12546.htm>.

⁴ Human Rights Watch Report, "Saudi Arabia: Follow U.N. Call to End Juvenile Death Penalty," 29 January 2006. Available at <http://hrw.org/english/docs/2006/01/29/saudia12546.htm>.

⁵ Id.

of Saudi Arabia to the Committee on the Rights of the Child and submit a copy to the Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions.⁶ Finally, we urge the Commission to affirm the recommendation of the U.N. Committee on the Rights of the Child that Saudi Arabia publicly commit to ending the execution of children.

7. In December 2004, the Lahore Supreme Court of Pakistan restored the juvenile death penalty.⁷ However, the Supreme Court of Pakistan stayed the decision of the Lahore Supreme Court in February 2005 and refused to reinstate the death penalty for child offenders.⁸ Human Rights Advocates urges the Government of Pakistan to continue to seek adherence by its provinces with the Juvenile Justice System Ordinance, as well as the CRC and ICCPR.

Life Imprisonment Without Possibility of Release for Child Offenders

8. The Convention on the Rights of the Child, ratified by every country in the world except the United States and Somalia, forbids the sentencing of child offenders to life without possibility of release. At least 132 countries have rejected the sentence altogether.

9. There are currently fourteen countries known to permit the sentencing of child offenders to life without possibility of release: Antigua and Barbuda, Australia, Brunel, Burkina Faso, Cuba, Dominica, Israel, Kenya, Saint Vincent and the Grenadines, the Solomon Islands, South Africa, Sri Lanka, Tanzania and the United States. Outside of the U.S., there are believed to be no more than twelve child offenders sentenced to life without possibility of release.

10. However, the United States disproportionately sentences child offenders to life without possibility of release. Presently, there are at least 2,225 child offenders sentenced to spend the rest of their lives in prison in the U.S and 42 of the 50 states have laws which allow child offenders to be sentenced to life without possibility of release.⁹ Ten states set no minimum age, and thirteen states set a minimum of 10 to 13 years of age. Virginia and Louisiana send the largest percentage of their child offenders to prison for the rest of their lives.

11. It is reported that South Africa has five child offenders serving life without possibility of release sentences.¹⁰ However, the Child Justice Bill was last reported under discussion in the South African Parliament. In line with the CRC, the Bill would outlaw life imprisonment for child offenders. We ask the South African government to clarify the status of the Child Justice Bill as well as the number of child offenders with life without

⁶ "Committee on Rights of Child Examines Report of Saudi Arabia," 24 January 2006. Available at [http://www.unog.ch/80256EDD006B9C2E/\(httpNewsByYear_en\)/949F8D773DC63E09C125710000483088?OpenDocument](http://www.unog.ch/80256EDD006B9C2E/(httpNewsByYear_en)/949F8D773DC63E09C125710000483088?OpenDocument).

⁷ Amnesty International Press Release, "Pakistan: Death Penalty for Juveniles reintroduced," December 2004.

⁸ Amnesty International, "Pakistan: Protection of juveniles in the criminal justice system remains inadequate," 1 October 2005. Available at <http://web.amnesty.org/library/print/ENGASA330212005>.

⁹ Human Rights Watch. World Report 2006, p. 510. Available at <http://hrw.org/wr2k6/wr2006.pdf>.

¹⁰ Human Rights Advocates, "Prohibitions of Certain Criminal Penalties for Juvenile Offenders." Report to the 61st Session of the Commission on Human Rights under Agenda Item 13.

possibility of release sentences to the Commission's independent expert on violence against children.¹¹

12. Additionally, Israel reportedly has seven child offenders with life without possibility of release sentences and Tanzania has one.¹² We ask the governments of Israel and Tanzania to report on the status of the number of child offenders sentenced to life without possibility of release and the status of their respective life without possibility of release sentences for child offenders generally to the UN's independent expert on violence against children as suggested in the Commission's 2004 Resolution on Human rights in the Administration of justice, in particular juvenile justice.¹³

13. The other countries with life without possibility of release sentences available for child offenders reportedly do not have any child offenders with these sentences. We commend their efforts and encourage them to remove the possibility of this sentence for child offenders.

Juvenile Justice Models and Rehabilitation

14. The ICCPR, the CRC, and the Beijing Rules provide that deprivation of liberty for child offenders be a "measure of last resort" and that juvenile justice include rehabilitation as a core component.

15. While there are few countries practicing the extreme sentencing of child offenders to death or life without possibility of release, Human Rights Advocates urges all countries to revisit their commitment to the CRC and deprivation of liberty for children as a last resort.

16. Human Rights Advocates commends the German model of juvenile rehabilitation. In the 1970's, Germany withdrew traditional sentencing for juveniles. The conventional model gave way to alternative measures in the 1970's: suspensions, probation, community service, and a system of day-fines. Between 1982 and 1990, incarceration of juveniles in Germany decreased more than 50 percent.¹⁴

17. Human Rights Advocates also commends the Georgia Justice Project for its innovative approach to breaking the cycle of crime and poverty with children in Atlanta, Georgia. The Georgia Justice Project accomplishes minimized rates of recidivism amongst juveniles through incorporating counseling, employment and education programs with its legal services.

¹¹ See, Commission on Human Rights, 60th Session, Agenda item 11(d), "Civil and Political Rights: Independence of the Judiciary, Administration of Justice, Impunity." E/CN.4/2004/RES/43.

¹² Liptak, Adam, "Jailed for Life after Crimes as Teenagers." New York Times. 3 October 2005. Available at <http://www.nytimes.com/2005/10/03/national/03lifers.htm?ex=1138078800&en=3ec00bf014b76b36&ei=5070>.

¹³ Commission on Human Rights, 60th Session, Agenda item 11(d), "Civil and Political Rights: Independence of the Judiciary, Administration of Justice, Impunity." E/CN.4/2004/RES/43.

¹⁴ Based on the presentation of Dr. Christian Pfeiffer to the National Institute of Justice, "Alternative Sanctions in Germany: An Overview of Germany's Sentencing Practices." Published February 1996. Available at <http://www.ncjrs.org/txtfiles/germany.txt>.

18. Human Rights Advocates urges other countries to expand their juvenile justice models to focus more extensively on rehabilitation programs, including education, counseling and social service programs to effectuate rehabilitation rather than recidivism.
