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PROMOTION AND PROTECTION OF HUMAN RIGHTS

**Written statement* submitted by International Possibilities Unlimited (IPU),
a non-governmental organization 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.

[3 February 2004]

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

International Possibilities Unlimited (IPU) and the National Coalition to Abolish the Death Penalty (NCADP) wishes to highlight the continued use of the juvenile death penalty in the United States despite numerous calls for the end of the practice from citizens, professional organizations, lawmakers, and the international community. It should be noted that given the growing number of U.S. jurisdictions that prohibit the execution of juveniles, the growing number of citizens opposed to the execution of juvenile offenders, and most importantly the recent U.S. Supreme Court's decision to revisit the question of the constitutionality of the juvenile death penalty, there is an unprecedented opportunity to affect change in the shameful practice of executing juvenile offenders.

Death Sentences Imposed on Juvenile Offenders

Since 1976, a total of 225 persons have been sentenced to death for offenses they committed as children. Five of them were female juvenile offenders. More than half of the 225 death sentences have been reversed or commuted, but as of February 1, 2004 seventy-six juvenile offenders remain incarcerated on death row. Since 1976, the United States has carried out 22 executions of juvenile offenders.

The most recent execution was carried out on April 3, 2003. Scott Hain was 17 years old at the time of his crime. It should be an embarrassment to the United States that this execution was carried out despite strong mitigating evidence citing a history of physical and sexual abuse, homelessness, poor education, and lack of parental guidance.

Three juvenile offenders (Omar Villareal, Brian Capatillo, and Efrían Perez) are currently scheduled for execution in 2004. The impending execution of these juvenile offenders further emphasizes the racial and geographic bias in the juvenile death penalty. In all three cases, the juvenile is Latino and the victim is white. All of these executions are scheduled to take place in Texas.

Racial and Geographic Bias and Juvenile Death Penalty

In the United States, the death penalty continues to be plagued by racial, socioeconomic, and geographic biases, to which children have not been immune. In fact, the racial disparity in the application of the death penalty is even more pronounced with juvenile offenders than it is with adult offenders. Over the past century, approximately 75% of persons sentenced to death row for juvenile offenses have been African American or Latino. The racial bias is even stronger when one considers gender. Of the ten female juvenile offenders executed in the United States, eight were African American and one was Native American. In each of these cases, the victim was white.

Sixty-seven percent of all juvenile offenders on death row in the United States are minorities. Of the 81 juvenile offenders currently awaiting execution, 38 are African American, 27 are white, 13 are Latino, 2 are Asian, and 1 is Native American. In other words, almost half of the juvenile offenders are African American, a group that makes up only 12.7% of the United States population. As of January 2004, the last six juvenile offenders executed in the United States were African American men in the state of Texas.

An examination of the geographic distribution of juvenile death sentences across the United States reveals a dramatic concentration of such sentences in the South—a region known for its unfettered racism. Southern states account for 84% of all death sentences imposed on juvenile offenders nationwide. Three of those states—Texas, Florida, and Alabama—account for exactly *half* of the 225 juvenile death sentences imposed in the country since 1976. Texas alone accounts for more than one-third of the current population of juvenile offenders on death row and approximately two-thirds of the 21 juvenile offenders executed since 1976.

Growing Momentum in the Movement to Abolish the Juvenile Death Penalty

The United State's unparalleled use of the juvenile death penalty has not only provoked express condemnation from the international community, but has also triggered momentum domestically to demand reform. Over the past several years, we have seen an increasing refusal among states to sanction juvenile executions, an emerging medical consensus that adolescents are less culpable for their actions than adults, and announcements from several Supreme Court justices that the practice offends this nation's evolving standards of decency.

The general public's opposition to the juvenile death penalty is also growing. Even in the wake of high-profile school shootings and a wave of prosecutorial efforts to treat juvenile offenders as adults, most people continue to understand the unique status—and rehabilitative potential—of juvenile offenders. In fact, according to a Gallup poll conducted in May 2002, 69% of Americans oppose the execution of juvenile offenders.

Numerous professional child welfare and medical organizations have added their voice to the call for an end to the juvenile death penalty. In October 2000, the American Academy of Child & Adolescent Psychiatry released a report entitled, "Recommendations for Juvenile Justice Reform." This report notes that the Academy, "strongly opposes the imposition of the death penalty for crimes committed as juveniles." In addition, both the American Medical Association and the American Psychological Association made public their support for ratification of the Convention on the Rights of the Child, which prohibits imposing the death penalty on juvenile offenders.

In addition to these developments, several organizations have similarly adopted formal positions opposing the execution of minors including: the American Academy of Child and Adolescent Psychiatry; the American Psychiatric Association; the American Bar Association; the Child Welfare League of America; the National Education Association, and the National Mental Health Association among others. Many other professional organizations have demonstrated their opposition to the juvenile death penalty by filing *amicus curiae* briefs with the Supreme Court in cases addressing the constitutionality of the practice or writing letters on behalf of individual juvenile offenders. Among those organizations are: the American Society for Adolescent Psychiatry; Defense for Children International-USA; the International Human Rights Law Group; the Juvenile Law Center; the National Legal Aid and Defender Association; and Physicians for Human Rights.

In January 2003, The National Coalition to Abolish the Death Penalty launched its Campaign to End Juvenile Executions. The Campaign is an effort to end the practice of executing persons for crimes committed by persons less than 18 years of age. The Campaign organizes its work around four core areas:

- **Media Advocacy** - Expanding the public's critique of the juvenile death penalty through local and state media outlets, from which most Americans get their news
- **Grassroots Advocacy** - Working with local affiliates to organize activities in opposition to the juvenile death penalty and to assist communities in speaking out against juvenile executions
- **Human Rights Advocacy** - Highlighting the juvenile death penalty as a violation of human rights and gaining the support of the global community for abolition of the juvenile death penalty in the United States
- **Legislative Advocacy**- Working to expand legislation that will ban the Juvenile Death Penalty

Currently, 31 U.S. jurisdictions (29 states, the federal government, and the District of Columbia) prohibit the execution of persons for crimes they committed as juveniles. Of the 21 states that permit juvenile executions, 16 states allow a 16-year-old to be sentenced to death, while the remaining states allow a 17-year-old to be sentenced to death.

Due to increasing public pressure and wide objection to the practice, many state legislatures and judicial courts are re-examining and debating the practice. In 2003 alone, legislation to ban the juvenile death penalty was introduced in 13 states.

Recent Advances

In August 2003 the Missouri Supreme Court found the juvenile death penalty unconstitutional and abolished the practice in its *Roper v. Simmons* decision. By doing so, Missouri has joined the growing number of states that are banning the practice of sentencing juveniles to death.

In January 2004, Governor Paul Patton of Kentucky commuted the sentence of Kevin Stanford, a juvenile offender on death row citing that the execution of juvenile offenders must become a practice of the past. With the commutation of Kevin Stanford's sentence, there are no juvenile offenders on Kentucky's Death Row.

Furthermore, there are currently six states (South Dakota, Florida, Delaware, Arizona, New Hampshire, and Wyoming) considering legislation that would abolish the juvenile death penalty. Passage in all states is hopeful.

Most importantly, The U.S. Supreme Court has decided to revisit the question of the constitutionality of the juvenile death penalty and will hear the case *Roper v. Simmons* in October 2004. Four members of the court have formerly stated opposition to the practice.

Other members of Court have also cited international law and practices as factors, of which juvenile death penalty is clearly in violation, in their decision-making.

Conclusion

We commend the Commission on Human Rights for its special focus on the imposition of the death penalty against juvenile offenders. We request the Commission to continue its urging of the United States to end the shameful practice of executing juvenile offenders and join the growing consensus that the death penalty should not be applied to children who were under the age of 18 at the time of the commission of the offence.
