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Not Yet Legal and in Prison?

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Abstract

The United States is the only industrialized country that sentences individuals to spend the remainder of their lives in prison for a crime they committed before the age of eighteen. The justice system established the sentencing of juveniles to life in prison without the possibility of parole to deter juvenile delinquency. Life without parole was regarded as an appropriate punishment following the rise of juvenile crime during the 1980s and 1990s. However, as psychological differences between juveniles and adults became more prominent, society began to regard life without the possibility of parole as a cruel and unusual punishment. Although some juveniles commit heinous crimes that warrant a life in prison, others receive the same punishment for a crime that does not merit a punishment of this extent.

Keywords

juvenile justice, prison, life sentence

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*Araseli Saldivar***Abstract**

The United States is the only industrialized country that sentences individuals to spend the remainder of their lives in prison for a crime they committed before the age of eighteen. The justice system established the sentencing of juveniles to life in prison without the possibility of parole to deter juvenile delinquency. Life without parole was regarded as an appropriate punishment following the rise of juvenile crime during the 1980s and 1990s. However, as psychological differences between juveniles and adults became more prominent, society began to regard life without the possibility of parole as a cruel and unusual punishment. Although some juveniles commit heinous crimes that warrant a life in prison, others receive the same punishment for a crime that does not merit a punishment of this extent.

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Introduction

Kuntrell Jackson and a couple friends formulated a plan to rob a department store (Moorehead, 2013). Before beginning the heist, Jackson learned that one of his associates was carrying a gun. The accomplices designated Jackson to remain outside the store and be the lookout. As a result, he was unaware of the situation unfolding inside. The store clerk resisted the demands of the perpetrators and threatened to call law enforcement. After the clerk's threat, Jackson's associate fired a handgun, shooting the clerk in the face, instantly killing her. Following Jackson's apprehension, the prosecutor decided to charge him as an adult and the jury eventually sentenced him to life without the possibility of parole (Moorehead, 2013). Juveniles commit numerous errors throughout their young lives. Many of these errors can result in inconsequential punishments. Although a few result in punishments of significant consequence, such as Jackson's, that does not mean they are suitable. Life without the possibility of parole is not an appropriate punishment for all juveniles. Juveniles are not as mentally developed as their adult counterparts and therefore, have the opportunity to change. Juveniles are not aware of the consequences resulting from their actions, and life without parole for juveniles is equivalent to a death sentence for adult offenders.

The increase in juvenile imprisonment resulted in the passing of the first legislation in 1988, regarding a juvenile offender's punishment. *Thompson v. Oklahoma* (1988) prohibited capital punishment for individuals under the age of 16; juveniles up to the age of 18 were included in a later expansion of this law (Steinberg, 2013). It was not until 2010, that the first legislation concerning the possibility of life without parole for juveniles was established. *Graham v. Florida* (2010)

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deemed a sentence of life without parole for a non-homicide crime, when committed by a juvenile, as unconstitutional (Steinberg, 2013). Following the ruling formerly determined in *Graham* (2010), the Supreme Court declared the sentencing of a juvenile to life in prison without the possibility of parole unconstitutional, regardless of the type of crime they had committed.

Juvenile delinquency rose dramatically in the late 1980s and early 1990s (Butler, 2010). The increase in crime resulted in harsh punishments in an effort to deter the delinquency. Appropriate forms of punishment included the death penalty and life without the possibility of parole. However, after implementing the abolishment of the death penalty towards juveniles, the focus shifted primarily towards the sentencing of life without parole. Individuals, including judges, have since gained a considerable understanding and reasoning for not applying such an extreme punishment (Butler, 2010).

The brain development of a juvenile is not as extensive as that of an adult, and therefore, several factors can impact a juvenile's behavior. Juveniles are easily influenced and persuaded by peer pressure to participate in heinous crimes as a result of their underdeveloped frontal lobe (Wood, 2012). The frontal lobe of a juvenile, which controls several processes of cognitive development such as decision making and the ability to reason, continues to develop past an individual's eighteenth birthday (Straley, 2014; Wood, 2012). Throughout an individual's teen years, they are participating in a process of identity development which entails them exploring and experimenting with several behaviors (Butler, 2010). Providing juveniles with the appropriate help, such as rehabilitation centers, can influence them to change their erratic behavior

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before it is too late. Since juveniles are easily influenced, imprisoning them with adult offenders can have detrimental effects. The close quarters can cause them to participate in violent behavior and to develop an identity of “domination and control,” potentially leading them to commit more crimes (Wood, 2012, p. 1455).

Juveniles are not aware of the consequences resulting from their actions. During the teen years, most individuals believe they can escape anything, or will not suffer extreme consequences if they are caught (Wood, 2012). Juveniles do not take into consideration the effect their actions can have on their future; they lack the “ability to consider long-term --let alone unforeseen-- consequences of their actions” (Butler, 2010, p. 276). The Supreme Court has also supported this statement by declaring that during development, juveniles lack the experience and wisdom to acknowledge and avoid decisions that could be harmful to them (Wood, 2012).

Life without parole for juveniles is similar to a death sentence for adult offenders. Sentencing a juvenile to life in prison without the possibility of ever reaching freedom, informs them that they are incapable of change, and thus incorrigible (Wood, 2012). Life without parole causes juveniles to experience the same emotional traumas as an adult sentenced to death: isolation, despair, and depression. Juveniles can develop both psychological and emotional disorders, which can lead to them committing suicide; therefore indirectly sentencing them to death (Wood, 2012).

Kuntrell Jackson believed he would never receive a punishment to the extent in which he did. He probably thought since he was not the person that pulled the trigger that day, he would only receive a couple of years in prison. Jackson was not

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aware that the consequences of his actions that fateful day would result in life in prison without the possibility of parole. Jackson's case demonstrates that juveniles do not think about the consequences of their actions, but rather, they are too focused on the present. A juvenile's unawareness to the repercussions of their actions can correlate back to their mental development.

In most circumstances, the mental developments of juveniles cause them to act before they think. Functional MRI's have shown that a juvenile's brain displays a lower level of activity in areas of the brain responsible for processing social information and predicting rewards and punishments (Steinberg, 2013). Since juveniles' brains function at a lower level of activity in predicting the consequences of their actions, they do not comprehend the severity of receiving a sentence of life without parole.

The purpose of sentencing an individual to life without parole is to permanently incapacitate them, since they have displayed they are a menace to the community by committing the reprehensible act (Butler, 2010). This conclusion assumes that the individual is incapable of changing or correcting their behavior; therefore, this form of punishment for juveniles is not appropriate. Juveniles have the greatest opportunity to change because of their continuous mental development. Therefore, imprisoning them will only hinder or prevent their development to realize their mistakes and change their ways. Even though many citizens believe juveniles that commit violent behavior should receive the same type of control usually reserved for adults, many also prefer the government spend their tax dollars on rehabilitative measures instead of on punishments (Miller & Applegate, 2014). Rehabilitative measures are preferred because

they change a person, presumably, for the better and deter future criminal activity, as opposed to incarceration.

Sentencing juveniles to life without parole means they will spend the remainder of their developing years in close proximity with adult offenders. Since juveniles are not entirely developed mentally, the adult offenders can take advantage of them or cause them to commit more acts of violence. In some instances, these acts of violence are a result of them trying to “fit in to inmate culture,” but in more drastic situations, it is a matter of life and death (Wood, 2012, p. 1456). Imprisonment with adult offenders therefore, puts their lives in extreme danger. For this reason, society has deemed life in prison without the possibility of parole for juveniles as cruel and unusual punishment, similarly to a death sentence for adults.

The establishment of *Miller v. Alabama* (2012) declares that states cannot sentence a juvenile to life without parole even in cases of homicides. However, within this law, the Supreme Court specified that under special circumstances “an individualized sentencing approach” is applicable to sentence an individual to life without parole (Moorehead, 2013, p. 701). Steinberg (2013) refers to this individualized sentencing approach as proportionality analysis, which is the decision of a sentence based on the nature and conditions of the crime. Some cases, such as that of Michiah Banks, a 17 year old who stabbed, strangled, beat, raped, and left a woman for dead, warrant a life in prison; while others, such as Kuntrell Jackson, who receive the same punishment do not merit a punishment of this extent (Moorehead, 2013). In determining which individualized situations can result in a sentence of life without parole, looking at similar cases can assist in establishing the appropriateness of the punishment.

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Despite resolving a long-standing issue within the justice system by ruling that juveniles are no longer punishable by life imprisonment without parole in *Miller* (2012), the Supreme Court failed to indicate whether this new mandate could be applicable to those juveniles who have already been sentenced to life in prison prior to the new mandate. Many of these individuals, who were forced to grow up and mature in prison, believe they deserve a second opportunity to obtain parole because they have changed and are more aware of the consequences their behavior creates. Henry Montgomery was a juvenile when he was sentenced to life in prison without parole for the murder of a police officer, and he has been in prison ever since. Following the *Miller* (2012) decision, Montgomery “sought state collateral relief,” asserting that his sentence, established in 1963, was no longer legal (*Montgomery v. Louisiana*, 2016). Montgomery’s case reached the Supreme Court, which ruled that the ban against life imprisonment without the possibility of parole would be applied retroactively (*Montgomery v. Louisiana*, 2016). This meant that Montgomery, along with all of the other prisoners who have been sentenced to life without parole for a crime they had committed when they were juveniles, would have the right to obtain parole. Legal action in regards to juveniles has improved significantly; however, there are still things needed to be done to prevent the imprisonment of America’s youth.

Appropriating tax dollars to develop more rehabilitative centers can help prevent juvenile delinquency. Additionally, conducting further scientific research can result in a considerable understanding of the brain developmental process. Learning if there is an established stage in brain development in which individuals are no longer regarded as juveniles can help the

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courts in treating them as adults, instead of juveniles, during the hearing process. The reverse outcome could also be beneficial; an extension could exclude adult perpetrators from the same punishment, if it is shown that their brain development is similar to that of a juvenile's. Future research will help to determine if the abolishment of life without parole for juveniles is favorable, regardless if they are an individualized case or not.

Following the abolishment of the death penalty, the only punishment left to apply towards juveniles who committed heinous crimes was life without the possibility of parole. This appeared as an appropriate form of punishment until 2010. The advancement in neuroscience showed that the discrepancies between adults and juveniles is much more significant than first believed. For instance, the brain continues to develop and mature "through late adolescence" (Steinberg, 2013, p. 514). For this reason, life without parole is not suitable for juveniles. Their brain has not fully developed, hindering their ability to realize the consequences of their behavior and actions. Once in prison, the lives of juveniles are in extreme danger, and instead of helping deter their criminal behavior, it produces increased rates of recidivism. For the United States to join the rest of the industrialized nations in preventing incarceration of juveniles as adults, it is necessary for the United States to enforce stricter laws regulating the types of punishments juveniles can receive.

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