

HUMAN RIGHTS WATCH

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Senator Wayne Kuipers, Chair
Senate Committee on the Judiciary
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December 9, 2008

Dear Chairman Kuipers and Members of the Judiciary Committee:

Human Rights Watch urges Michigan's Senate Judiciary Committee to vote in favor of Senate Bills 6, 9, 28, and 40, which will abolish the sentence of life without parole for juvenile offenders in your state. We oppose life without parole for juveniles because it is cruel, inappropriate (particularly given recent scientific research), imposed disproportionately on black youth, and a violation of international law.

Human Rights Watch has been analyzing the issue of life without parole sentences for juveniles since 2004. Our most recent publication on this issue, released in 2008, *The Rest of Their Lives: 2008*¹ updated findings published in *The Rest of Their Lives: Life Without Parole for Child Offenders in the United States*² (a 2005 report on juveniles sentenced to life without parole throughout the United States).³ Based on our research, we urge the Committee to vote in favor of Bills 6, 9, 28, and 40 for three main reasons.

First, the decision to sentence a juvenile to life without the possibility of parole is a decision to sentence that young person to die in prison. There is no time off for good behavior, no opportunity to prove that he has become a different person, responded with remorse, and chosen a path of rehabilitation. Next to the death penalty, there is no harsher condemnation, no clearer judgment by our society that this is a life to be thrown away.

In *Roper v. Simmons*, 543 U.S. 551, 561 (2005), the US Supreme Court found that the differences between juveniles and adults render suspect any conclusion that a juvenile offender can be judged

¹ Please see <http://www.hrw.org/sites/default/files/reports/us1005execsum.pdf>.

² Please see <http://www.hrw.org/en/reports/2005/10/11/rest-their-lives>.

³ We have also published *Thrown Away*, <http://www.hrw.org/en/reports/2008/12/09/thrown-away> (a 2005 report on life without parole for juveniles in Colorado) and *When I Die They'll Send Me Home*, <http://www.hrw.org/en/reports/2008/01/13/when-i-die-they-ll-send-me-home> (a 2008 report on life without parole for juveniles in California).

beyond rehabilitation at such a young age. Neuroscience reveals that the process of cognitive brain development, including the formation of impulse control and decision-making skills, continues into early adulthood—well beyond age 18. The fact that juveniles are still developing their identity and ability to think and plan ahead means that even a heinous crime committed by a juvenile is not “evidence of an irretrievably depraved character.”⁴

Research by Human Rights Watch and others has revealed that often youth sentenced to life without parole were not the primary actors in the crime: they did not pull the trigger; they did not physically commit the crime. Nearly half of youth sentenced to life without parole surveyed in Michigan were sentenced for aiding and abetting or for an unplanned murder in the course of a felony.⁵ In 45 percent of California cases surveyed, youth sentenced to life without parole had not actually committed a murder and were convicted for their role in aiding and abetting or participating in a felony.⁶ These are all cases in which someone else was the primary actor. A significant number of these cases involved an attempted crime gone awry—a tragically botched robbery attempt, for example—rather than premeditated murder.

Moreover, Human Rights Watch estimates that 59 percent of the youth serving life without parole in the United States received this sentence for their very first offense—they had no juvenile or adult criminal record whatsoever prior to the offense that resulted in their life sentence. We also estimate that 26 percent of the youth serving the sentence of life without parole in the United States received it for aiding and abetting or felony murder.

Second, we urge you to vote in favor of Bills 6, 9, 28, and 40 because we are deeply concerned that racial discrimination enters into the determination of which youth receive life without parole sentences, and which youth enjoy the possibility of release. In Michigan, racial disparities in sentencing practices raise serious concerns: African-American youth are serving life without parole sentences at a rate that is ten times higher than that of Caucasian youth.⁷

Third, the US practice of sentencing youth to life without parole violates international law. International law prohibits life without parole sentences for those who commit their crimes before the age of 18, a prohibition that is universally observed outside of the United States. Oversight and enforcement bodies for two treaties to which the

⁴ Ibid. p. 570.

⁵ American Civil Liberties Union of Michigan, “Second Chances, Juveniles Serving Life without Parole in Michigan’s Prisons,” 2004, <http://www.aclumich.org/pubs/juvenilelifers.pdf> (accessed September 2, 2008), p. 4.

⁶ Human Rights Watch, *When I Die, They’ll Send Me Home: Youth Sentenced to Life without Parole in California*, January 2008, <http://www.hrw.org/reports/2008/us0108/>, p. 21.

⁷ Human Rights Watch, *The Rest of Their Lives*: 2008, May 2008, <http://www.hrw.org/sites/default/files/reports/us1005execsum.pdf>, p. 6.

United States is a party (the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination) have found the practice of sentencing juvenile offenders to life without parole to be a clear violation of US treaty obligations.

The United States is the world's worst human rights violator in terms of sentencing juvenile offenders to life without parole. There are currently 2,500 persons serving the sentence of juvenile life without parole in the United States; as of February 2008, to our knowledge, not a single youth is serving this sentence anywhere else in the rest of the world. Within the United States, Michigan has the third largest number of juveniles serving this extremely punitive sentence, falling just behind Louisiana and Pennsylvania.⁸

Juveniles can and do commit terrible crimes. When they do, they should be held accountable and face appropriate consequences. Children are different from adults, however, and the punishment imposed for their offenses should reflect their age and level of development. At a minimum, laws should preserve the opportunity for parole for juvenile offenders, and the ability to review whether someone sentenced to life in prison as a child has been rehabilitated.

For the foregoing reasons, Human Rights Watch urges Michigan to make its laws more just and eliminate the sentence of life without parole for children by passing Bills 6, 9, 28, and 40.

Thank you for your consideration, and please feel free to contact me if I can provide you with any further information.

Sincerely,

A handwritten signature in black ink that reads "Alison Parker". The signature is written in a cursive, flowing style.

Alison Parker
Deputy Director, US Program

cc: Senators Cropsey, Sanborn, Patterson, Stamas, Clarke, and Prusi

⁸ Human Rights Watch, *The Rest of Their Lives*: 2008, May 2008, <http://www.hrw.org/sites/default/files/reports/us1005execsum.pdf>, p. 3.