

## Don't Discard Youthful Offenders

By David Berger

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Children can and sometimes do commit terrible crimes, and when they do they should be held accountable. But life in prison without any possibility or even consideration of parole does not hold children accountable, it holds them disposable. Child offenders should be sentenced in a manner that reflects both the severity of their crime and their special capacity to change and redeem themselves.

A recent report by Amnesty International and Human Rights Watch reveals that 2,225 child offenders in the United States been locked up for life without any possibility of parole. Fifty-nine percent of child offenders serving life without parole are in prison for their first criminal offense, and an estimated 27 percent were sentenced for felony murder -- that is to say, they were involved in a crime during which a murder took place, but they did not take part in the murder itself. Sixteen percent of child offenders serving life sentences without parole were between the ages of 13 and 15 when they committed their crimes.

Also striking are the racial disparities, which we find in every area of the criminal justice system but which are perhaps even more pronounced in the sentencing of children to life without parole. Black children in the United States are 10 times more likely to receive life without parole than white children are. Sixty percent of the current population of child offenders serving life without parole is black.

Are you the same person you were when you were 14, or 16? Neither are the child offenders who have been discarded into our prison system without any hope of release, but our criminal sentencing laws ignore this obvious fact. As the Supreme Court said in a landmark decision on the juvenile death penalty last spring: "any parent knows" and "scientific and sociological studies . . . tend to confirm" that children possess a "lack of maturity . . . an underdeveloped sense of responsibility . . . [and take] impetuous and ill-considered actions and decisions." While a neuroscientist could explain to you the specifics of brain development, it doesn't take a doctoral degree to know that kids act out, often don't consider the consequences and are extremely susceptible to peer pressure.

Often touted as a leader in human rights, the United States lags behind the rest of the world on this important human rights issue. Amnesty and Human Rights Watch were able to identify only 12 child offenders in the entire rest of the world serving the sentence often termed "death by incarceration." That's right -- 12 in the rest of the world and 2,225 in the United States.

Judges cannot look into a crystal ball at the time of sentencing. Children are uniquely suited for change: They grow up and mature, often becoming unrecognizable to those who knew them in childhood. Yet in many states, sentencing of children who have committed very serious crimes has become an exercise in fortune telling.

Ironically, in 28 states, even a judge with a crystal ball could not save a child from being discarded into our prisons for life. Instead, in these states, judges' hands are tied by mandatory sentencing laws. Sentencing

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decisions should be made case by case. A "one-size fits all" approach to criminal justice ignores the inherent ability children have to change.

Sentencing a child offender to life without the possibility of parole sends a message to that child -- who is more likely than not low-income, African American or Hispanic -- that his life is less valuable, his potential contributions are less significant and he is not worth the minimal time or effort it would take to revisit his case and evaluate his state of redemption later in life. We can do better for our troubled youth than discarding them forever.

*The writer is a Washington attorney with O'Melveny & Myers LLP and serves as pro*

*bono counsel to Amnesty International USA.*

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