

U.S. Should Adhere to Global Standards in How We Treat Our Youth



The U.S. has a shameful record in its treatment of justice-involved youth. While recent Supreme Court decisions are promising, this country has much work left to do in handling young people in contact with the justice system.

We are the only nation that still regularly sentences youth to life in prison without parole (JLWOP), and we are alone – except for Somalia – in failing to ratify the United Nations Convention on the Rights of the Child ([CRC](#)).

By the time the U.S. condemned the juvenile death penalty, in 2005, several hundred other countries had either officially outlawed the juvenile death penalty or didn't impose it even if it was still on the books. Only in 2005 did the Supreme Court declare, in [Roper v. Simmons](#), that capital punishment for people who were minors at the time of their offenses constitutes cruel and unusual punishment.

Our thirst for punishing youth is not warranted. Young people comprise a small portion of justice-involved individuals nationwide, and juvenile crime has plummeted over the last 40 years. Moreover, the teen “superpredator” warning of the 1990s, which triggered many of today's draconian juvenile sentencing laws, has been debunked.

The U.S. has made progress since 2005, with the Supreme Court at the helm. After Roper, the Court held in [Graham v. Florida](#) (2010) that it is unconstitutional to sentence youth to JLWOP for nonhomicide crimes. In [Miller v. Alabama](#) (2012), the Court invalidated mandatory JLWOP on constitutional grounds.

In all these cases, the court considered international standards in its decisions. In Roper, Justice Anthony Kennedy wrote, “the Court has

referred to the laws of other countries and to international authorities as instructive for its interpretation of the Eighth Amendment’s prohibition of ‘cruel and unusual punishments.’”



In addition to its continued imposition of JLWOP, the U.S. falls short of international juvenile justice norms in two areas. First, the minimum age at which children can be prosecuted for a crime – the “minimum age of criminal responsibility” (MACR) – is disturbingly low among the states that impose it. MACR laws ensure that youth receive necessary protections from the state due to youth’s higher susceptibility to victimization, the limited rights of children and the developmental differences between youth and adults.

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The U.N. child rights convention requires that countries establish a MACR, and endorses a minimum age of 12. According to the [Child Rights International Network](#), 33 U.S. states do not impose a MACR at all. Of the states that do, Wisconsin sets the highest at age 10, while North Carolina sets the lowest at 7. In contrast, a majority of European Union countries have a MACR of 14; Canada sets it at 12; and most countries in South America use age 12 or higher. Because we

have not ratified the CRC, we are not bound by its important mandates, thus enabling the U.S. to flout international standards.

Second, our nation's zeal to prosecute youth as adults disregards global norms. The CRC is unequivocal in its view that trying minors as adults and subjecting youth to adult sentences should never be allowed.

Many countries have heeded the CRC's recommendations. For example, Germany does not allow youth to be prosecuted as adults, and its juvenile laws apply to individuals up to age 21. Notably, Germany has a relatively low juvenile reoffense rate at 30 percent. Though youth can be prosecuted as adults in some developed countries, the applicable sentencing policies often do not allow judges to subject youth to adult sentences or house youth in adult facilities.

By contrast, every U.S. state has laws permitting, or even requiring, youth to be tried as adults in some cases – to the detriment of public safety. Children as young as 7 have been tried as adults in this country. With an adult court sentence, American youth can be sent to state prison for decades, if not the rest of their lives.

In other developed countries, however, similar youth would be held accountable within the juvenile system in ways that address the root causes of delinquency, while avoiding the imposition of disproportionate, ineffective sentences.

As a so-called leader in human rights, the U.S. must pursue the path that the Supreme Court has set into motion and adhere to global juvenile justice norms by regulating MACR laws and prosecuting and sentencing youth as what they are, youth.

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