

Human Rights Watch

Children's Rights

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Judges Must Consider the Attributes of Youth in Deciding Sentence

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A landmark ruling by the California Supreme Court overturns a two-decades-old presumption in favor of life without parole sentences for juveniles convicted of certain murders, Human Rights Watch said today. The decision brings the [United States](#) closer to the rest of the world in the approach to sentencing for youth.

The California Supreme Court decision on May 5, 2014, in *People v. Gutierrez* and *People v. Moffett* requires sentencing courts to take into consideration a host of factors relevant to the distinct status of juveniles. The two cases were consolidated under review.

The California Supreme Court has recognized that young people are different from adults in ways that are crucial to consider in sentencing, said [Elizabeth Calvin](#), senior children's rights advocate at Human Rights Watch. By still allowing the sentence in rare cases, the court did not go far enough, but it did recognize that it is nearly impossible to be certain that any young person is beyond redemption.

No other country sentences people to life without parole for offenses they committed before the age of 18, even for homicide offenses. The ruling requires that, in cases in which life without parole could be imposed, California judges must take into account the differences between children and adults.

Human Rights Watch submitted an amicus brief in the case, and the opinion cited Human Rights Watch [research](#) on the subject. Reinterpreting what it called an ambiguous state statute, the California Supreme Court applied principles from a string of recent US Supreme Court cases holding that children are constitutionally different from adults for purposes of sentences. The most recent of those US Supreme Court cases, *Miller v. Alabama* (2012), held that mandatory sentencing of juvenile offenders to life without parole was unlawful. That opinion provided an extensive list of factors pertaining to the age of a person convicted of a crime that courts should consider before sentencing. Youth have less responsibility for their actions than adults and greater prospects for reform, the court concluded.

In applying those principles to California, the state's high court ruled that trial courts must consider all relevant evidence bearing on the distinctive attributes of youth discussed in *Miller*, including hallmark features of adolescence such as immaturity, impulsivity, and a failure to appreciate risks and consequences. The ruling requires sentencing courts to consider how those factors reduce the justification for imposing the harshest of sentences on youth.

In 2012 the California legislature passed a law allowing review of most cases of life without parole sentences imposed on juveniles after the person has served between 15 and 25 years in prison. The California attorney general argued in *Gutierrez* that the new law, found in California Penal Code 1170(d), eliminated any constitutional problems with the sentencing of youth to life without parole. The court rejected that proposition, holding, among other things, that the consideration of how children are different and how those differences counsel against a sentence of life without parole should occur before courts impose a sentence, not just after a youth has matured into an adult.

Human Rights Watch estimates that, nationally, over 2,500 people are serving life without parole for crimes they committed while juveniles. In California, more than 300 people who were under the age of 18 at the time of their crime have been sentenced to life in prison with no possibility of parole, Human Rights Watch [found](#).

Since 2004, through numerous interviews and in-depth data analysis, Human Rights Watch has been investigating the situation and [conditions of confinement](#) of youth sentenced to life without parole [throughout the United States](#), and in particular, in states such as [California](#) and [Colorado](#). This research has found stark racial disparities in the imposition of the sentence, with black youth serving life without parole at a per capita rate 10 times that of white youth.

The racial disparities plaguing life-without-parole sentences for juveniles, and the harshness of this sentence in light of many youths' criminal histories, are important reasons to question its fairness, Calvin said. But the sentence is inappropriate in every case. Both

constitutional and international human rights law recognize that children must be treated differently from adults.

Human Rights Watch also estimates that 59 percent of the youth serving sentences of life without parole in the United States received this sentence for their very first offense. They had no criminal record of any kind prior to the offense that resulted in their life sentence.

Moreover, youth sentenced to life without parole often were not the primary actors in the crime: they did not pull the trigger or physically commit the homicide. A significant number of these cases involved an attempted crime gone awry a botched robbery attempt, for example rather than a murder planned by the youth in advance.

The court has recognized today what every parent knows kids are different and are capable of tremendous growth and transformation, Calvin said. Now, it is up to judges and state legislators to ensure that all child offenders have a meaningful chance to work toward rehabilitation, to periodically demonstrate their achievements, and, if merited, to earn their release from prison.

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