concern was that the mandatory life sentences in *Miller* left no room for a sentencer to consider a juvenile offender's special immaturity, vulnerability, suggestibility, and the like. In Justice Kagan's view, a process that mandates life imprisonment without parole for juvenile offenders is constitutionally flawed because it forecloses any consideration of the hallmark distinctions of youth in meting out society's severest penalties. In leading four Justices in dissent, Chief Justice Roberts observed that most states and the Federal Government have statutes mandating life sentences without parole for certain juvenile offenders in homicide cases, and that those mandated sentences are commonly imposed. These sentences simply are not "unusual," nor does state law and practice indicate societal opprobrium toward them. Justice Kagan remained unconvinced, finding the dissent's methodology less persuasive when the issue is the process that must be used in imposing a particular sentence as opposed to categorically barring a type of sentence altogether.

Prisons and Punishment

"It is unquestioned that '[c]onfinement in a prison . . . is a form of punishment subject to scrutiny under the Eighth Amendment standards.'"[247] "Conditions [in prison] must not involve the wanton and unnecessary infliction of pain, nor may they be grossly disproportionate to the severity of the crime warranting imprisonment. . . . Conditions . . . , alone or in combination, may deprive inmates of the minimal civilized measure of life's necessities. . . . But conditions that cannot be said to be cruel and unusual under contemporary standards are not unconstitutional. To the extent that such conditions are restrictive and even harsh, they are part of the penalty that criminal offenders pay for their offenses against society."[248] These general principles apply both to the treatment of individuals[249] and to the creation or maintenance of prison conditions that are inhu-

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[247] Rhodes v. Chapman, 452 U.S. 337, 345 (1981) (quoting Hutto v. Finney, 437 U.S. 678, 685 (1978)).

[248] 452 U.S. at 347. *See also* Overton v. Bazzetta, 539 U.S. 126, 137 (2003) (rejecting a challenge to a two-year withdrawal of visitation as punishment for prisoners who commit multiple substance abuse violations, characterizing the practice as "not a dramatic departure from accepted standards for conditions of confinement," but indicating that a permanent ban "would present different considerations").

[249] *E.g.*, Jackson v. Bishop, 404 F.2d 571 (8th Cir. 1968) (beating prisoner with leather strap violates Eighth Amendment); Estelle v. Gamble, 429 U.S. 97 (1976) (deliberate medical neglect of a prisoner violates Eighth Amendment); Helling v. McKinney, 509 U.S. 25 (1993) (prisoner who alleged exposure to secondhand "environmental" tobacco smoke stated a cause of action under the Eighth Amendment). In Erickson v. Pardus, 551 U.S. 89 (2007) (per curiam), the Court overturned a lower court's dismissal, on procedural grounds, of a prisoner's claim of having been denied medical treatment, with life-threatening consequences. Justice Thomas, however, dissented on the ground "that the Eighth Amendment's prohibition on cruel and unusual punishment historically concerned only injuries relating to a criminal sentence. . . .