

Juvenile Life Without Parole:
An Opportunity for Funders to Help Reform a Serious Human Rights Abuse
Contributed by Sue Simon, U.S. Human Rights Fund, Public Interest Projects
Human Rights Funding News, IHRFG e-Newsletter, October 18, 2012

What is Juvenile Life without Parole?

The United States is the only country in the world where life without parole sentences are imposed on children—some as young as 12 years old. Even though the death penalty was abolished in 2005 for youth convicted of a crime while under the age of 18, juvenile life without parole (JLWOP) ensures that thousands of those incarcerated as children will die with no chance for sentence review. At present, there are 2,100 to 2,500 people serving JLWOP in 39 states and the federal prison system. Pennsylvania and Michigan claim the odious distinction of having the largest number of individuals currently serving.



Photo Credit: A Justice Project

JLWOP encompasses many of the thorniest social justice issues, including racial disparities in sentencing, conditions of confinement, and the placement of youth in adult jails and prisons. Donors to the U.S. Human Rights Fund (USHRF) and its JLWOP Sub-fund believe that determining fair, appropriate treatment for youth offenders is neither a liberal concern, nor a matter only for juvenile justice advocates and criminal justice experts – it is an issue of basic human rights. Furthermore, we believe that the specific qualities of adolescence – immaturity of judgment, susceptibility to negative peer pressure, and a heightened capacity for change and rehabilitation—must be taken into account in meting out punishment. Neuroscience findings have documented the significant differences between kids and adults via brain imaging and other data.

An Opportune Moment for Reform

Although the United States is the only country besides Somalia that has not ratified the Convention on the Rights of the Child, the U.S. Supreme Court recently issued some landmark decisions that provide hope for the abolition of JLWOP. In 2010, the Court ruled that JLWOP is unconstitutional for non-homicide crimes. In the case of *Graham v. Florida*, it was determined that Terrance Graham, who had been sentenced to JLWOP at age 17 for a violation of his probation on robbery charges, was entitled to a resentencing hearing. As a result, more than 125 other juveniles serving life without parole for non-homicide crimes also became eligible for relief. However, many of those affected did not have competent legal representation to enable them to seek a sentence review.

In the cases of *Miller v. Alabama* and *Jackson v. Hobbs* earlier this year, the Supreme Court ruled that it is unconstitutional to sentence any child under age 18 to a mandatory life without parole sentence in homicide cases. How *Miller/Jackson* is implemented will be determined by the capacity of advocates on

the ground to undertake strategic and coordinated action in the courts and state governments. As a result of the ruling, more than 2,000 individuals are eligible for resentencing in the coming year, but advocates need increased funds to overcome the lack of infrastructure to train litigators and other mitigation experts. Additionally, a number of states have begun considering draconian amendments to their current JLWOP laws to circumvent the ruling which must be pushed back.

Grantmaking to Help End JLWOP

In seeking to rectify the human rights violations associated with JLWOP sentences, the USHRF supports the work of advocates committed to building diverse coalitional and public support to end this practice. These groups are using organizing, litigation and legislative change strategies, including empowering affected families and bringing cases in the Inter-American Commission on Human Rights, to secure reform.

To raise awareness and resources over the last three years, JLWOP Sub-fund members have collaborated with grantee partners to host eight donor briefings on state-based and national reform initiatives. Together, they have developed omnibus funding proposals to support communications and legal training. Donors have pooled their dollars to support enhanced coordination (led by the Campaign for the Fair Sentencing of Youth) and outreach to unlikely allies, including prison guard unions and victims' family members.

The USHRF also conducted [an assessment](#) among grantee partners to ascertain the most urgent coordination, legal services and advocacy gaps related to the *Miller/Jackson* decision. The appraisal revealed which state and national organizations felt best positioned to address the needs, if adequately resourced. While the results were broadly circulated in the donor community, much of the work has yet to be funded. One major challenge for advocates is that JLWOP reform work is not clearly encompassed within a philanthropic sector. For example, many juvenile justice funders see JLWOP as an adult issue; many criminal justice funders see JLWOP as a youth issue; and children, youth and family funders often see JLWOP as being outside of their purview.

USHRF donors have seen demonstrable improvements in capacity and coordination among its grantees and allied organizations working to end JLWOP. The use of a human rights frame has resulted in more successful policy advocacy and strategic litigation than might have been achieved by following a solely civil or constitutional rights-focused approach. They can also attest that JLWOP is a lynchpin to issues of shared concern such as harsh sentencing reform and ending the "school to prison pipeline." Above all, they urge other funders to get involved. As Former Wyoming Senator Alan Simpson stated, "When a young person is sent 'up the river,' we need to remember that all rivers can change course."

For more information, please contact [Sue Simon](#), Director, U.S. Human Rights Fund.