

JUVENILE LIFE WITHOUT PAROLE IN THE UNITED STATES

Independent Information for the 107th session of the Human Rights Committee (HRC)

Submitted by the Midwest Coalition for Human Rights
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Reporting Organization

1. The Midwest Coalition for Human Rights (Coalition or Midwest Coalition)¹ is a network of 56 organizations, service providers, and university centers,² that work together to promote and protect human rights in our Midwest region³. Through collaboration in the Heartland, we advocate, educate and take action with a strong regional voice on national and international human rights issues. In particular, our work focuses on the following critical issue areas:

Freedom from Torture and Cruelty – The Coalition works to eliminate torture, and other cruel, inhuman and degrading treatment or punishment by U.S. officials at home or abroad. Specifically, we advocate against excessive use of force, misuse of Tasers, long-term sentencing of youth, and segregation and prolonged isolation in jails and prisons.

Immigrant Rights – The Midwest Coalition is committed to advocating for the human rights of immigrants, refugees, and asylum seekers. In particular, we focus on ending unjust U.S. immigration detention practices.

Economic Justice – The Coalition is dedicated to ensuring the full spectrum of economic, social, and cultural rights in our communities. In particular, we use the human rights framework to uphold worker rights and address unemployment, income inequality, and the dismantling of social welfare.

Non-Discrimination – The Midwest Coalition works to achieve equity by utilizing international human rights standards to promote and protect the rights of all people regardless of race, nationality, ethnic origin, gender, or sexual orientation. We are committed to identifying and opposing disparate, unequal treatment and discrimination in all areas of our work.

Issue Summary

2. The United States subjects its juveniles to sentences of life in prison without the possibility of parole (“JLWOP”) in violation of its obligations under the International Covenant on Civil and Political Rights (“ICCPR”).

Concluding Observations

3. The Human Rights Committee (“the Committee”) made the following recommendation in its Concluding Observations on the last report submitted to it by the US Government:

¹ See www.MidwestHumanRights.org for more information about the reporting organization.

² See Appendix A for a full list of members.

³ The Coalition represents the following Midwest states: Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, Ohio, North Dakota, and Wisconsin.

- **Para 34:** The State party should ensure that no such child offender is sentenced to life imprisonment without parole, and should adopt all appropriate measures to review the situation of persons already serving such sentences.

U.S. Government Report

4. This is the first Periodic Report submitted by the U.S. Government since the U.S. Supreme Court handed down its groundbreaking decision in *Graham v. Florida*.⁴ *Graham* fundamentally altered the constitutional landscape regarding permissible sentences for youth offenders. Though JLWOP remains a possibility for certain crimes, the Court placed important limits on its application.⁵ But the change resulting from *Graham* and by the recent decision in *Miller*, may be more illusory than real. Overwhelming stasis can be found in state justice systems where thousands of youth offenders remain locked up without any meaningful opportunity for release.⁶ Moreover, many states continue to employ mandatory sentencing schemes and impose JLWOP for accomplice crimes like felony-murder in contravention of the United States’ obligations under the ICCPR.
5. Much of the U.S. Government’s discussion of JLWOP focuses on *Graham* and what the decision means for youth sentencing going forward.⁷ Explicitly acknowledging the Committee’s concluding observations and concerns expressed by civil society, the United States points to *Graham* as evidence of significant progress.⁸ The report takes pains to underscore the narrow constitutional confines within which JLWOP continues to exist.⁹ Striking an unmistakably conciliatory note, it seems clear that the United States at least recognizes the harm caused by JLWOP—a welcome change from prior reports. No mention is made, however, of any measures to implement the Committee’s recommendation of a total ban on JLWOP. Instead, the report offers the same hollow assurance as the U.S. Government’s previous Periodic Reports that “important safeguards” accompany LWOP sentences as an argument that the government is fully compliant with the ICCPR.¹⁰

Legal Framework, Human Rights Committee General Comments

6. While there is no express provision of the ICCPR that addresses sentencing juveniles to life without the possibility of parole, several articles unmistakably prohibit the practice when read together:
 - Article 7 states that “[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”¹¹

⁴ 130 S.Ct. 2011 (2010). For a complete discussion of *Graham*, please see *infra* Part III.

⁵ *Id.*

⁶ For a complete discussion of the current state of juvenile sentencing practices, please see *infra* Part III.

⁷ See U.S. Fourth Report, *supra* note, at ¶ 212, 679.

⁸ *Id.*

⁹ *Id.* at ¶ 679 (“Following the Supreme Court’s decision in *Graham*, a person under the age of 18 at the time of the crime who has been sentenced to life in prison without parole will have been tried and convicted, pursuant to law and procedures ensuring due process of law, of a homicide offense, and determined through formally constituted judicial proceedings to be an extreme danger to society.”).

¹⁰ *Id.* at ¶ 679.

¹¹ United Nations International Covenant on Civil and Political Rights art. 7, Dec. 16, 1966, 999 U.N.T.S. 171 [hereinafter “ICCPR”].

- Article 10 expands on the specific rights for incarcerated individuals. “The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.”¹²
- Article 14(4) requires that the adjudication of juveniles “take account of their age and the desirability of promoting their rehabilitation.”¹³
- Article 24(1) states, “[e]very child have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.”¹⁴

7. JLWOP directly contradicts the requirement in Article 14(4) that imprisonment should promote rehabilitation, and the requirement in Article 24(1) that every child be given protection based on her status as a minor.

Other UN Body Recommendations

8. The Committee Against Torture—the United Nations body responsible for ensuring state compliance with the Convention—considered the second report of the United States in May 2006. The Committee largely focused its conclusions and recommendations on issues related to the torture of detained prisoners. However, it also noted concern over “the large number of children sentenced to life imprisonment” in the United States.¹⁵ The Committee expressed its judgment that JLWOP “could constitute cruel, inhuman or degrading treatment or punishment” under CAT if allowed to continue.¹⁶ The neglect, physical and sexual abuse, and psychological trauma experienced by children serving life sentences without the possibility of parole would seem to meet at least the minimum standard for most definitions of torture.¹⁷
9. The Committee on the Elimination of Racial Discrimination found that JLWOP violates Article 5(a) of CERD,¹⁸ which guarantees the right to equal treatment before all justice systems. It based this finding on the fact that JLWOP is disproportionately imposed on children belonging to racial, ethnic, and national minorities.¹⁹

¹² *Id.* at art. 10.

¹³ *Id.* at art. 14(4).

¹⁴ *Id.* at art. 24(1).

¹⁵ U.N. Comm. Against Torture, *Conclusions and Recommendations of the Committee Against Torture: United States of America*, P9, U.N. Doc. CAT/C/USA/CO/2 (July 25, 2006).

¹⁶ *Id.*

¹⁷ See Tera Agyepong, *Children Left Behind Bars: Sullivan, Graham, and Juvenile Life without Parole Sentences*, 9 NW. U. J. INT’L HUM. RTS. 83 (2010).

¹⁸ U.N. Comm. on the Elimination of Racial Discrimination, *Concluding Observations of the Committee on the Elimination of Racial Discrimination: United State of America*, P21, U.N. Doc. CERD/C/USA/CO/6 (8 May 2008).

¹⁹ *Id.*

Recommended Questions

10. The Reporting Organization submits the following recommended questions for the consideration of the Committee:

- In light of the new ban on mandatory life without parole for juveniles, please describe the measures being taken to review the sentences of juveniles already serving sentences of life without parole.
- Please describe the measures being taken to ban *all* sentences, without exception, of life without parole for juveniles.

Suggested Recommendations

11. The Reporting Organization submits the following recommendations for the consideration of the Committee:

- Enact legislation or take other necessary measures to end the use of JLWOP, and apply these changes retroactively.
- Investigate state and federal statutes permitting mandatory sentences for children and develop plans to revise these sentencing schemes to appropriately account for a child's youth and other individual circumstances.

APPENDIX A: Members of the Midwest Coalition for Human Rights

8th Day Center for Justice
Advocates for Basic Legal Equality, Inc.
American Civil Liberties Union of Illinois
American Friends Service Committee – Great Lakes Regional Office
Amnesty International USA – Midwest Office
Center for Civil and Human Rights – Notre Dame Law School
Center for Holocaust and Genocide Studies – University of Minnesota
Center for International Human Rights – Northwestern University
Center for the Human Rights of Children – Loyola University
Center for Victims of Torture
Champaign-Urbana Citizens for Peace & Justice
Chicago Justice Project
Chicago Religious Leadership Network on Latin America
Children and Family Justice Center – Northwestern University
Citizens Alert
Coalition of African, Arab, Asian, European and Latino Immigrants of Illinois (CAAAELII)
Coalition to Protect Public Housing
Council of Islamic Organizations of Greater Chicago
Council on Crime and Justice
Freedom House – Detroit
Global Initiative on Economic Social and Cultural Rights
Heartland Alliance for Human Needs and Human Rights
Hispanic Advocacy and Community Empowerment through Research (HACER)
Human Rights Center – University of Minnesota
Human Rights Program – University of Chicago
Human Rights Program – University of Minnesota
Human Rights Watch – The Chicago Committee
Immigrant Law Center of Minnesota
International Human Rights Law Institute – DePaul University
International Studies and Human Rights Program – University of Dayton
International Women’s Rights Action Watch
Interprofessional Center for Counseling and Legal Services University of St. Thomas
Jewish Council on Urban Affairs
Justice for Our Neighbors – Iowa
Justice for Our Neighbors – Nebraska
Juvenile Life Without Parole Initiative – ACLU of Michigan
La Conexión de las Americas
League of Minnesota Human Rights Commissions
MacArthur Justice Center – Northwestern University
Marjorie Kovler Center for the Treatment of Survivors of Torture
Michigan Coalition for Human Rights
National Immigrant Justice Center
National Underground Railroad Freedom Center
Nebraska Appleseed Center for Law in the Public Interest
North Dakota Human Rights Coalition
Program in International Human Rights Law – Indiana University
Tamms Year Ten Campaign
The Advocates for Human Rights
University of Iowa Center for Human Rights
University of Iowa Labor Center
Urban Morgan Institute for Human Rights – University of Cincinnati College of Law
US Labor Education in the Americas Project (USLEAP)
Voces de la Frontera
Women’s All Points Bulletin
Workers Interfaith Network
World Without Genocide