

Supreme Court of the United States  
STEPHANIE P., Petitioner  
v.  
POX COUNTY  
Decided June 6, 2008

Petitioner was convicted of first degree murder and sentenced to life imprisonment without the opportunity for parole. The court of appeals reversed her conviction, holding that sentencing a juvenile to life imprisonment without the opportunity for parole violated the Eighth Amendment to the Constitution of the United States. The state supreme court reversed the court of appeals and reinstated the trial court's sentence. We granted certiorari.

This case requires us to address, for the first time, whether it is permissible under the Eighth Amendment to the Constitution of the United States to sentence a juvenile to life imprisonment without the possibility of parole. We will first consider the judgment of the legislatures that have addressed the suitability of imposing life imprisonment without the possibility of parole. Then we will consider whether the punishment meets the goals of criminal punishment in the United States and our reasons for agreeing or disagreeing with their judgment.

I

The Eighth Amendment provides: "Excessive bail shall not be required, nor excessive fines imposed nor cruel and unusual punishments inflicted." U.S. Const. amend. VIII. The guarantee that individuals will not be subjected to excessive sanctions flows from the duty of the government to protect the "dignity of man." *Trop v. Dulles*, 356 U.S. 86, 100-101 (1958).

As the court explained in *Roper v. Simmons*, the prohibition against "cruel and unusual punishments" must be interpreted "according to its text, by considering history, tradition and precedent, and with due regard for its purpose and function in the constitutional design." *Roper v. Simmons*, 543 U.S. 551, 560 (2005). In applying this framework, the court has consistently

referred to “the evolving standards of decency that mark the progress of a maturing society.” *Trop*, 356 U.S. 86 at 100-101. Review under those evolving standards should be informed by “ ‘objective factors to the maximum possible extent.’ ” See *Harmelin v. Michigan*, 501 U.S. 957, 1000 (1991) (quoting *Rummel v. Estelle*, 445 U.S. 263, 274-75 (1980)).

We have pinpointed that the “clearest and most reliable objective evidence of contemporary values is the legislation enacted by the country’s legislatures.” *Penry v. Lynaugh*, 492 U.S. 302, 331 (1989). The reason we ascribe primacy to legislative enactments follows from the constitutional role legislatures play in expressing policy of a State. *Atkins v. Virginia*, 536 U.S. 304, 323 (2002). “[I]n a democratic society legislatures, not courts, are constituted to respond to the will and moral values of the people.” *Furman v. Georgia*, 408 U.S. 238, 383 (1972).

The evidence of a national consensus in favor of life imprisonment without the possibility of parole for juveniles is stronger than the evidence the court in *Roper* held sufficient to demonstrate a national consensus against the death penalty for juveniles. When *Roper* was decided, 30 States prohibited the juvenile death penalty. This number comprised 12 that abandoned the death penalty altogether and 18 that maintained it, but by express provision or judicial interpretation, excluded juveniles from its reach. *Roper*, 543 U.S. at 564. *Roper* emphasized that even in the 20 States without formal prohibition on executing juveniles, the practice is infrequent. In the 10 years prior to the court’s decision, only three states executed prisoners for crimes committed as juveniles. *Id.* at 565.

Conversely, in the present case, 40 states permit juveniles to be sentenced to life imprisonment without the opportunity for parole. Human Rights Watch, *The Rest of Their Lives: Life Without Parole for Child Offenders in the United States: III Background*,

<http://www.hrw.org/reports/2005/us1005/4.htm> (2005). The federal courts also permit the imposition of this sentence on juveniles age 15 and over. *Id.* Of the States that permit life imprisonment without the possibility of parole, 10 States place no restrictions on the minimum age at which the sentence can be imposed. *Id.* Restrictions on the minimum age in the remaining 25 States varies from age eight to age 16. *Id.* The large number of States permitting life imprisonment of juveniles without the opportunity for parole provides powerful evidence of the current widespread judgment about the categorical culpability of juvenile offenders and the relationship between age and the penological purposes served by life imprisonment without parole.

## II

### A

We also acknowledged that the objective evidence did not “wholly determine” the controversy, “for the Constitution contemplates that in the end our own judgment will be brought to bear on the question of the acceptability of the death penalty under the Eighth Amendment.” *Coker v. Georgia*, 433 U.S. 584, 597 (1977). Historically, in rendering its judgment this court has considered whether a particular form of punishment meets the primary goals of criminal punishment – retribution, and deterrence. *See Atkins*, 536 U.S. at 318-319. Unless the imposition of the penalty measurably contributes to one or more of these goals, it is nothing more than the purposeless and needless imposition of pain and suffering and hence an unconstitutional punishment. *Edmund v. Florida*, 548 U.S. 782, 798 (1982).

With respect to retribution – the interest in seeing that the offender gets his “just deserts” – the severity of the punishment depends on the culpability of the offender. *Atkins*, 536 U.S. at 319. Unlike capital cases, we have not confined the imposition of life without the possibility of

parole to the most serious crimes. *See Harmelin*, 501 U.S. at 962-963. In *Rummel*, for example, we held that it did not constitute cruel and unusual punishment to impose a life sentence upon a defendant who had been convicted, successively, of fraudulent use of a credit card to obtain \$80 worth of goods or services, passing a forged check in the amount of \$28.36, and obtaining a \$120.75 by false pretenses. *Id.* We validated the sentence on the grounds that the significant terms of imprisonment are imposed purely as a matter of legislative prerogative. *Id.* The fact that we view minors as presumptively impaired (as evidenced by voting, driving, drinking, and tobacco use restrictions) such that adolescent blameworthiness is diminished does not negate the fact that contemporary society views at least some children as having sufficient maturity to receive adult treatment by the Courts. No single State, for example, prohibits prosecution of minors as adults, with 20 States placing no minimum age restrictions on adult prosecution. Human Rights Watch, *supra*. Further, in the case of imprisoning juvenile offenders without parole, sentencing judgments are always made by reference to a particular individual, rather than a group. In other words, no law says that all juvenile murderers will be sentenced to life without parole. By not prohibiting life imprisonment without the possibility of parole, we leave it open to juries to determine the culpability of an individual defendant and whether a particular sentence is an appropriate retributive response to his/her crime.

With respect to deterrence – the interest in preventing crimes by prospective offenders – it is true that many juveniles lack the mental capabilities to sufficiently weigh the consequences of their actions. Brief for the Am. Psychological Ass’n, and the Miss. Psychological Ass’n as Amici Curiae in Support of Respondent at 2, *Roper v. Simmons*, No. 03-633 (2004). As such, the severe penalty of imprisonment without parole will have little or no effect on adolescent behavior as a group. *Id.* at 14. In as much as we view some adolescents as capable of making

future-oriented decisions for sentencing purposes, however, we also conclude that continuing to allow imprisonment without parole will likely have a deterrent effect on those adolescents capable of adult decision making.

## **B**

Admittedly, there is considerable social, professional, and international objection to life imprisonment without the possibility of parole. *See e.g.* Convention on the Rights of the Child, art. 37, Sept. 2, 1990, 1577 U.N.T.S. 3 (prohibiting life imprisonment without the possibility of parole for juveniles); John Hubner, *Discarded Lives, Children Sentenced to Life Without Parole*, [http://www.amnestyusa.org/Spring\\_2006/Discarded\\_Lives\\_Children\\_Sentenced\\_to\\_Life\\_Without\\_Parole/page.do?id=1105357&n1=2&n2=19&n3=392](http://www.amnestyusa.org/Spring_2006/Discarded_Lives_Children_Sentenced_to_Life_Without_Parole/page.do?id=1105357&n1=2&n2=19&n3=392) (last visited June 3, 2008) (concluding that life imprisonment without parole is rare elsewhere in the world with a total of 12 child offenders serving life terms compared to 2,225 in the U.S.). The only time our court has given weight to such objections was in *Roper*, a case in which the national legislative consensus regarding capital punishment for juveniles was less convincing. In this case, however, the overwhelming support by legislatures for life imprisonment without the opportunity for parole for juveniles does not justify reliance on international law in determining whether a particular punishment survives a constitutionality analysis under the U.S. Constitution. In addition, we have explicitly rejected the idea that the sentencing practices of other countries could serve to establish an Eighth Amendment prerequisite that a practice is accepted in the United States. *Stanford v. Kennedy*, 492 U.S. 361, n. 1 (1989). To the extent that there is social and professional disagreement with the sentence, we leave it to the elected representatives of a State's populace to determine whether the reasoning is persuasive enough to prompt legislative action. *Penry*, 492 U.S. at 334-335 (declining to consider similar data where the public sentiment had yet to find

expression in state law); *Stanford*, 492 U.S. at 377 (refusing “the invitation to rest constitutional law upon such uncertain foundations” as “public opinion polls, the views of interest groups, and the positions adopted by various professional associations).

### C

Further, we see no evidence that it is necessary to restrict this sentence to adult offenders based on the challenge of sentencing an individual who is maturing during the trial process. The American Psychological Association argued in its amici brief in support of the respondent in *Roper* that the mitigating effect of adolescence is unreliable because the observable behavior of the juvenile offender at trial may not accurately reflect his/her maturity at the time of the crime. Brief for the Am. Psychological Ass’n, and the Miss. Psychological Ass’n as Amici Curiae in Support of Respondent, at 3. It is likely, however, in the course of a trial that evidence of the defendant’s age and character at the time of the crime will be presented to the jury. Thus, even though adolescent behavior is subject to change, juries should be well-positioned to evaluate age as a mitigating factor when handing down a sentence. This conclusion supports the foundation of our sentencing system, which entrusts juries with “mak[ing] the difficult and uniquely human judgments that defy codification and that ‘buil[d] discretion, equity, and flexibility into a legal system.’” *McCleskey v. Kemp*, 481 U.S. 279, 311 (1987) (quoting H. Kalven & H. Zeisel, *The American Jury* 498 (1966)).

### D

Finally, in the context of capital cases, we have also considered the magnitude of the punishment imposed as it relates to the degree of harm inflicted on the victim and the defendant’s blameworthiness. *Edmund*, 548 U.S. at 815. In the only case in which we considered life imprisonment without the possibility of parole, however, we concluded that the Eighth

Amendment does not guarantee this so-called proportionality principle. *Harmelin*, 501 U.S. 957, at 985. Writing for the court, Justice Scalia confirmed that the death penalty is unique in its total irrevocability, suggesting a narrow application of the proportionality principle. *Id.* at 995. In his concurrence, Justice Kennedy allowed that the proportionality principle may be applied in “extreme” non-capital cases, but declined to elaborate on what these extreme cases might be. *Eighth Amendment – Juvenile Sentencing – Ninth Circuit Upholds Life Sentence Without Possibility of Parole of Fifteen-Year-Old Murderer*, 110 Harv. L. Rev. 1185, 1188 (1997). On one hand, it might be argued that life imprisonment without the possibility of parole for juveniles is extreme, because of the special latitude we afford children as they make mistakes on their journey toward adult maturity. We decline, however, to give special weight to the age of criminal offenders in determining whether the sentencing of youths to life imprisonment without the opportunity for parole is an “extreme” punishment requiring proportionality review. A life sentence does not have the permanence of execution, especially considering that at least some State statutes do not absolutely preclude the possibility of parole. *See e.g.* Ark. Code Ann. § 43-2807(b) (1973) (providing for parole eligibility upon commutation to a term of years by executive clemency). Proportionality review is one of the several aspects in which we have held that “death is different” and have imposed protections that the Constitution nowhere else provides. We will not extend it further in this case.

#### IV

In the case at bar, we have discerned widespread legislative support for life imprisonment without the possibility for parole for juveniles. In the absence of convincing arguments to the contrary, we hold that this sentence does not offend the Eighth Amendment’s prohibition against

cruel and unusual punishment. For the reasons set forth above, the judgment of the State Supreme Court is thus affirmed.

It is so ordered.