

**Fair Judgement of Minors Facing the Death Penalty: An Ethical Appeal to the U.S. Courts**

**An Honors Thesis (HONR 499)**

**by**

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*December 2018*

**Expected Date of Graduation**

*May 2018*

## ABSTRACT

It is inherently cruel and unjust to give a minor a death penalty. There are many issues with the United States' justice system, including the systematic racism and refusal to conform to ideas that are in other nations considered are considered basic human rights. Emmett Till and Napoleon Beazley both faced unjust and cruel deaths. Though Emmett Till's death did not come from a court sentencing, the United States justice system did not punish anyone for killing him. Napoleon Beazley committed a crime as a minor and was sentenced to an unfair death. Though the United States ratified the International Covenant on Civil and Political Rights in 1992, it fails to uphold the heavily amended treaty that it ratified. Besides the inherent injustice of sentencing a minor to death, the United States also struggles with systematic racism that punishes people of color even more harshly than their white counterparts. There are many disparities in prisons between people of color and white people, showing just how the United States justice system values the lives of people of color versus the lives of white people. Discussed in detail in this thesis is the injustice towards specifically young black men within the justice system. Young black men are punished more harshly and have a harder time socially recovering from a prison sentence. Harsh punishments for these young men can even deny them the chance to socially recover at all, since black minors were much more likely to receive the death penalty or life without parole sentences than white minors. There are many steps that the United States has taken to fix these injustices, such as Supreme Court cases banning the execution of minors or most cases of sentencing minors to life without parole. All of these steps have not fixed the root issue in the United States' justice system, and unfair or harsh punishments continue to be given to people of color far more. By holding the United States' justice system to a higher standard and

more closely conforming to the laws set in place or the ICCPR, the country could begin to fix what has made it so unjust since its inception.

## PROCESS ANALYSIS STATEMENT

This thesis began with a clear idea: look at children and other people within the legal system who are automatically at a disadvantage because they are children and write a paper about how it is wrong that they are sentenced to death. My goal in my future career is to be able to help people, and to understand the injustices disadvantaged members of our society face is important in understanding not only the problem, but how to fix it.

The thesis was then divided up into three sections. Past cases of children facing the death penalty focused around a major case to give context to the issue, current problems that we are still facing with our justice system and how they relate to the past, and a look into the future and how we might be able to fix these issues of inequality. For the past, I decided early on to use Emmett Till as an example. While not sentenced to death, his case showed the injustices that I wanted to highlight in this paper. He was an innocent minor killed by two white men because he went against the cultural norms of the racist South in the 1950s. His killers were acquitted of the crime, though they would later admit to doing it. It is a significant example of the United States justice system failing one of the people it is supposed to protect.

In deciding to use Emmett Till as my first example, systematic racism in the United States would become part of the thesis. It was not until I looked at more recent cases until I realized what a part it would play. The original intent of the paper was to look at minors facing the death penalty and explain why it was wrong. However, it was clear as I continued researching that racism played not only a huge part in our justice system, but that it was also in effect destroying the lives of minors of color. The racism in our justice system makes it easy to look at a child of color and condemn them to death or give them a life sentence without parole, even when you would never imagine doing the same to a white child. The thesis is till about

minors facing the death penalty, but it could not have been written without acknowledging the institutionalized racism in America.

Choosing a more recent case to compare against Emmett Till was hard. Emmett Till was an innocent minor who had done nothing wrong legally. This thesis is not about children who are wrongly given the death penalty, so I wanted to be clear that even a minor who has committed a crime that might get them a death sentence as an adult does not deserve to be given a death sentence as a minor. I ended up choosing to look at Napoleon Beazley, who was one of the last minors executed in the United States. Though he had committed homicide, his death at the hands of the state was a cruel punishment that he did not deserve. Though Emmett Till and Napoleon Beazley are not the same, both of their deaths were morally unjust.

It was a happy surprise to find out that there had been a Supreme Court case in 2007 that put an end to most cases of minors facing the death penalty. However, once I read into the case, it was clear that this was not the step forward I had hoped it would be. Replacing the death penalty for minors were now life sentences without parole. The Supreme Court had just swapped out active death penalties for inactive ones, letting the sentenced minors die in a prison cell instead of by lethal injection. This cycle of hopefulness and disappointed repeated a few times as I found another case about minors being given life sentences without parole and the International Covenant on Civil and Political Rights. The ruling against minors being sentenced to life without parole still has some exceptions for minors who have committed murder, and the ICCPR was amended before it was ratified by the United States, making it essentially powerless.

It became clear that there were many ways that the United States could work to better themselves and change the justice system to protect the rights of all people equally. This thesis is a call to action for such steps to be taken. This thesis lays out one aspect of the corrupted system

governing the United States and critiques the changes that have failed to fix anything regarding African American minors.

Until recently, a person of sixteen or seventeen could commit a crime, be charged as an adult, and receive a death sentence in the United States. Since then, there have been changes to our legal system that prevent the execution of minors. However, there is still a problem facing our minors going through the legal system with severe criminal charges: if not the death penalty, then what punishment should be given? This thesis will be looking at the alternatives offered to these minors who have committed severe crimes instead of being given the death penalty and find the issues in our society that underlies much of the activity going on in our legal system concerning minors today.

To begin, a separate, older case will be examined. While this minor did not receive a death penalty and was, in fact, not charged with any crime at all, the similarities between a minor's death in 1955 and one nearly fifty years later in 2002 will be compared. We will be looking at the death of this minor, and more importantly, what the United States thought of his death. We will then compare the kind of media attention this case saw compared to the death of a man sentenced when he was still a minor, to see how times have changed.

### **Emmett Till**

Emmett Till was a fourteen-year-old who had been sent from Chicago to Le-Flore County, Mississippi for the summer of 1955 (Spencer). Unfortunately, he came back to Chicago in a coffin. Till was murdered for an offense against a white woman, though the exact offense is still unclear. His cousins claimed that this only offense was putting his money directly into the hand of the woman working at a store that night—a white woman by the name of Carolyn Bryant (Thorton). A few old men who were outside playing checkers at the time say that he wolf-

whistled at the white woman working the counter as he left (Thorton). Others say that he squeezed the woman's hand, grabbed her around the waist, and propositioned her (Spencer).

Whatever his crime, this act against a white woman resulted in Till being kidnapped from his home (Houck and Grindy, 14). From there, he was taken and brutally beaten to death by the white woman's husband, Roy Bryant, and his half-brother, J.W. Milam (Spencer). His body was disfigured from not only the beating, but also from being thrown into the river where his body was found a few days later (Spencer).

In the aftermath of this case, there are two assumptions generally made. The first is that his murder made national headlines, and the second is that everyone disagreed with what had happened to him (Thorton). That fact is that when looking at ten major magazines at the time for that year, only eighteen articles were ran about Emmett Till, and eleven of those were in the prominent black magazine *Jet* (Thorton). What is more is that of the seven magazines that posted letters to the editor, only four posted any letters concerning Emmett Till, and the letters were not always about the writer disagreeing with his fate (Thorton).

The lack of coverage was shocking for many reasons. Many people retroactively assume that there was a large uprising of people who were upset about this young boy's unfair death. It seems logical, considering that his mother insisted on an open casket, which showed off his disfigured and barely recognizable face (Thorton). The aforementioned *Jet* magazine published a picture of him like that, his face beaten and unrecognizable as he lay in his coffin, to the shock and horror of many of its readers (Thorton). That was still not enough to create a universal public outcry.

It was predicted shortly after Till's burial that he "would be turned into something insidious" (Houck and Grindy, 20). There was, unfortunately founded, fear that once the picture

of the dead beaten boy in a coffin was out of people's mind, he would be made the villain to white Mississippi and perhaps the whole white United States. While there was sympathy for the Till family at the time of his death, the country's sympathy was quickly given instead to his killers, shown to be two outstanding young men pictured in their military uniforms in the newspapers (Houck and Grindy, 29).

Though initially being sought after as an accomplice, Carolyn Bryant, the woman whom he in some way offended, was "let off the hook" (Houck and Grindy, 35). Sheriff Smith was quoted as saying that they were not going to go after her because "she's got two small boys to take care of" (Houck and Grindy, 35). Apparently, the worries of Mrs. Bryant and her killer husband outweighed the worries of Mrs. Till, who had lost her only son to racial driven violence.

Till's killers were both acquitted in 1955 by an all-white jury (Spencer). In 1959, Till's story received more traction in newspapers and magazines when Bryant and Milam confessed in an interview, though only Milam would speak for the record (Spencer).

### **The International Covenant on Civil and Political Rights**

The acceptance of the death penalty for minors is especially confusing considering the International Covenant on Civil and Political Rights (ICCPR). The ICCPR is an agreement was "designed primarily to protect individuals against arbitrary government action and to ensure individuals the opportunity to participate in government and other common activities" (Hurtle and Champion). Before the United States ratified the ICCPR, it was said that "almost half the members of the world community have, by becoming [p]arties accepted the new international rule that individuals are not mere objects but have direct rights and ultimately may be able to

enforce those rights” (Hurble and Champion). The ICCPR was to be overseen by a human rights committee that would handle complaints (Hurble and Champion).

In 1992, the ICCPR was ratified by the United States after multiple limitations were added, including refusing to ban the execution of minors (Hurble and Champion). Around forty states added their own reservations to the ICCPR (Hurble and Champion). To further limit the power the ICCPR might have, the Supreme Court case *Reid v Covert* ruled that the United States Constitution overrules the treaty (Hurble and Champion).

In essence, the United States had signed a treaty agreeing to a certain humane treatment of other human beings and ensured that the treaty would be powerless. The changes to the treaty meant that the United States could not be held to the same standards as other countries who had signed and agreed to it. Even more power was taken from the ICCPR when the United States decided that they did not have to govern themselves according to the treaty they had signed and agreed to so long as their own constitution said something else. This meant that nothing in the treaty had any weight unless it was not previously ruled upon in the Constitution or any of its amendments.

With the covenant meaning so little in the end, the fates of the people who broke the law were left in the hands of the judges who interpreted the constitution. The same racist ideas that had let a young black boy’s killers go free stayed in the United State’s legal system. These same ideas continue to this day to cause harm to people who continue to be systematically discriminated against, and the only people that are paying for it are the victims. Without outside intervention, the United States justice system continues to put different values on different people’s lives, leading to unfair punishment for some citizens based only on the color of their skin.

The United States does have to have period reports, though the fact that two reports were jointly submitted in October 2005 because one was seven years overdue would lead one to believe that it is not a priority for the nation (“FAQ”). During its 4<sup>th</sup> periodic report on March 13<sup>th</sup> and 14<sup>th</sup> of 2014, representatives from the United States answered questions for two days at the United Nations in Geneva (“FAQ”). After the meeting, the United States was given a list of concerns and problems concerning their compliance with the ICCPR and asked to respond in the next year (“FAQ”).

The treaty is meant to assure the other nations that the United States, a superpower, treated its citizens with the basic human rights that it expected everyone else to uphold as well. With the United States concerned enough about the morality of other nations to enter wars, it is important to ensure that the country can uphold these values for its own citizens.

### **Napoleon Beazley**

In 2002, nearly fifty years after the death of Emmett Till, a new case comes to an end with the death of a man who committed murder as a seventeen-year-old. While it might seem that things should have changed drastically from the original setting in the 1950s, it is important to speak of the current situation. In 2000, African Americans were four times more likely to be held in a prison (“Black Disparities”). Though it has changed slightly in how it is presented, the same racism that acquitted Emmett Till’s murders was still alive and well within the United States justice system. Worse still, this same system was the only industrialized country to give a death sentence to people under 18 years of age, despite having ratified the ICCPR in 1992.

Napoleon Beazley was one of the last people executed in the United States for a crime committed when he was a minor. At seventeen, Beazley shot a man, fired at his wife and stole

their car (Hurble and Champion). The man Beazley shot was the father of a federal judge (“Texas”). He committed this crime in 1994, two years after the United States ratified the ICCPR, when he was seventeen and was executed in 2002. The amendments to the ICCPR that the United States ratified meant that the United States justice system could sentence a minor with the death penalty, despite the unedited treaty preventing countries from doing just that.

What was written about Beazley after he received the death sentence could have very well come from the 1950s when talking about Till. Popular political commentator Ann Coulter wrote “Death row inmate Napoleon Beazley deserves the death sentence” (Coulter). She described him as a “vicious, lumen predator” even after commenting on the fact that before this crime, he had no criminal record (Coulter). She continued to disparage his “two hoodlum friends” who were there, and describes Cynthia Kent, the prosecutor that made a plea for his life, as a “soppy-headed lady lawyer” (Coulter). She goes as far as to claim that if he had claimed innocence, then everyone would believe him (Coulter). The fact that the man Beazley shot at was the father of a United States federal judge seems to beg the question as to whether America would have been eager to forgive the seventeen-year-old. Despite the hatred of these statements concerning a minor, this is not an outrageous opinion to have about the Beazley case. Many Americans were torn about what Beazley deserved for his crimes. Mirroring Emmett Till’s situation, a group of white people decided that it would be best for everyone that he died. In Till’s situation, his jurors, judges and executioners were two white men who were not punished for their actions. For Beazley, his all-white jury helped give him the death sentence. Though Till was innocent and Beazley had committed a crime, both of their cruel punishments were accepted by the United States justice system at the time.

Looking at other headlines for news articles involving Beazley gives us more insight to the media's impression of this minor. He is often called a killer, or left unnamed. Some news articles will paint him as a victim or in a sympathetic light. CNN wrote an article about Beazley, telling about his story. CNN mentioned the fact that at the time of writing the article in 2002, Illinois and Maryland had made the decision to block executions until they could be sure that they had dealt properly with issues of racial bias and had made sure that there was a fair trial given ("Texas").

There were a number of issues with the Beazley case, one of which Coulter briefly touches on. Beazley's lawyer claimed that one of the jurors used the "N"-word in front of her (Coulter). Attorneys for Beazley attempted not only to argue against the problem of Beazley being judged by an all-white jury, one of which seemed to have racial issues, but also that Beazley's execution would violate the eight amendment as well as international treaties ("Texas"). Despite attempting to fight the sentencing, Beazley was put to death in 2002 at the age of 25 (Hurple and Champion). In his final statement, Beazley says a number of things that leave a large impact on those who read it. Beazley talks about how "the person who committed the act is no longer here – I am" (Beazley). Beazley talks about people he knows, calling them "good men who fell under misguided emotions" and he even acknowledges the main issue with the death sentence for someone so young, saying that "the problem is not that people aren't willing to help them find out [how to fix their mistakes], but in the system telling them it won't matter anyways" (Beazley). Beazley comments on how not all men are reformed or remorseful, but those who are, those who have been haunted by a mistake made when they were much younger, have no way of reforming themselves or fixing their wrongs.

Beazley speaks of a peaceful compromise, wishing no ill will against those who would be carrying out his sentencing (Beazley). He goes as far as to say that he does not want revenge on anyone who is putting him to death, but that he would wish for them what he had been denied- a second chance (Beazley). The final sentence of his statement is perhaps the most powerful and sums up the problem with the death sentence for minors the best: "No one wins tonight. No one gets closure. No one walks away victorious" (Beazley).

### **Racial Disparities**

*The New York Times* ran an article titled "Chatter: Rehabilitation in Prison?" three years after Beazley's arrest. In the article, there are a number of opinions about people's feelings towards those in prison, and not all of them feel like Beazley. Though Beazley spoke about those on death row in his final statement, there was a feeling of frustration about the inability to reform once you are on death row. For some of the people who contributed, they did not like the idea of rehabilitation for any prisoners. One person said that only first-time offenders are capable of being rehabilitated, calling repeat offenders lazy and accusing them of being unwilling to hold a steady, honest job and not caring about their families and friends being effected by their actions ("Chatter"). Another asked why we are wasting tax payer's money to rehabilitate people who should be paying for their crimes, both with their time in prison and monetarily to the families of those experiencing loss ("Chatter").

One person who contributed had a completely different point of view, however, calling prisons a "modern form of slavery" that specifically targets non-white people ("Chatter"). They talked of "Project Return," a \$2,000 program for ex-inmates that gave them education, counseling and help with job placement for ninety days ("Chatter"). Of those who went through

this comparatively inexpensive program, only 5.6% returned to prison, compared to 65% of inmates that return otherwise (“Chatter”).

### **Racial Issues in the Prison System**

Beazley was executed in 2002, even though the United States had ratified the ICCPR, the same one his lawyers had alluded to. Sixteen years later, in our current setting of 2018, things have changed, but for the worse. As of 2015, African Americans are now five times more likely to be held in prisons (“Black Disparities”). Even more alarming, African American men were six to eight times more likely to be incarcerated than white men (Western, 509). In 2015, there was also racial disparity between the number of African Americans and white people in jail in all fifty states (“Black Disparities”). If white men were incarcerated at the same rate black men were, there would be over six million people in jails and prisons, including 5% of the man working age population (Western, 509).

In 2005, the Supreme Court case *Roper v Simmons* determined that people over the age of fifteen but under the age of eighteen cannot be executed (DeNunzio). The case barely won, pulling through with a 5-4 vote (DeNunzio). It was determined that people under the age of eighteen have an inherently diminished mental capacity, and it is cruel and unusual to execute them (DeNunzio). The judge writing the majority opinion went as far as comparing those under eighteen-years-old to the “mentally retarded” (DeNunzio). Interestingly, international and foreign law was cited to have been part of the determining the case (DeNunzio). This invalidated death sentences for more than seventy people on death row at the time of the ruling (DeNunzio).

As much as a victory *Roper v. Simmons* was, it did not dig in to the deeper issues that were presented with minors with severe criminal charges. The Sentencing Project, a foundation

that has been working towards a fairer US justice system since 1986, states that being a minor does not excuse the crimes of these people, but most of these minors were failed by systems intended to protect children (“Juvenile Lifers”).

Without the death sentence being an option, there were other ways that the legal system now punished minors with severe criminal charges. The United States alone imposes life sentences without parole to minors (“Juvenile Lifers”). It seems that the odds are already stacked against minors who are sentenced to life without parole. In a national survey of people who were sentenced to life without parole as a minor, 79% of them witnessed violence within their homes (Nellis). 46.9% have experienced physical abuse, though that percentage goes up to 79.5% when looking at just women (Nellis). 31.5% were raised in public housing, and only 46.6% of them were attending school actively when they committed their crime (Nellis).

There is also the issue of extreme racial disparities: 43.4% of African American minors serving life without parole were arrested for murdering a white person, while only 23.2% of African American minors are arrested for that crime (Nellis). 3.6% of white minors serving life sentences were arrested for killing an African American, though 6.4% of arrested minors are arrested for the very same crime (Nellis). Even so far into the future, the same racism continues to thrive within our justice system which let Emmett Till’s killers be acquitted even after confessing to their brutal murder. With statistics like this, it is clear whom the United States justice system is really worried about protecting, and it’s not young black men.

Though it is not a death sentence, a life sentence without parole means that the minor will die in prison. There is some hope, with the 2010 Supreme Court case *Graham v Florida*, that ruled that no minor can be sentenced life without parole in a non-homicide case (Maroney).

Importantly, the majority of judges in the case also said that minors were not yet fully developed enough to face that consequence (Maroney).

Even without life without parole, though, prospects are bleak for minors who are sentenced. With things such as solitary confinement and some prisons designed to normalize violence and de-humanize inmates, any jail sentence can be damning (Demers, 506). If a minor is not developed enough to face the death penalty or life sentences without parole, what kind of developments will they face in a prison system that is not only racially biased, but also punishes people who are already at a disadvantage?

### **The Future of the United States Prison System**

In situations such as these, one must always look to the future for change. According to the American Civil Liberties Union (ACLU), approximately 2,570 people are currently serving life without parole sentences given to them as minors (“End Juvenile”). One must also take into account what sort of change might be able to be made. The trends we currently see in American prisons systems are upsetting and seem unlikely to produce a better future. The United States has substantially higher incarceration over European countries (Western, 509). The disparity between black and white inmates has risen by up to 200% from 2001 to 2015 (“Black Disparity”). If someone does manage to get out of the prison system and reform him- or herself, the impact that they are able to make to the system which detained them is limited, with 6.1 million Americans currently unable to vote due to felony disenfranchisement laws (“Black Disparity”). Going into a prison vastly changes your opportunities later in life and has even “hardened lines of social disadvantages” (Western, 509). It is already hard to build a life in America without being born in

the right circumstances, and a prison sentences further cements a person's disadvantages, making it more difficult to rise above them.

Looking at the present situation of the United States' prison system in context of what has just been discussed is disheartening, but there are still steps available to change, both now and in the future. To begin with current issues, there is the possibility of the United States helping the under privileged more. Just isolating one factor of poverty, such as income, gives us a lot of insight. The average annual income of prison inmates was only \$19,185 as of 2014 (Rabuy and Kopf). With this, inmates earned an average of 41% less than their peers of the same age group before they were arrested (Rabuy and Kopf). Unsurprisingly, there is also a large disparity not only between men and women, but also between white and non-white inmates. The average annual income for non-incarcerated males was \$41,250 and \$23,745 for non-incarcerated women (Rabuy and Kopf). The average for prisoners before their arrests was \$19,650 for men and \$13,890 for women (Rabuy and Kopf). The median income for white males before their arrests was more than \$2,000 higher than the median income for prisoners before arrest, while the median income for black men was below, and Hispanic men earned less than \$600 more than the median income (Rabuy and Kopf). For women, both black and Hispanic women's incomes were below the median income for pre-incarcerated women, and white women's median income pre-incarceration was again above the average (Rabuy and Kopf). As we have seen, most of the people who are currently juvenile lifers are at a disadvantage from the beginning. Though new rulings make life sentences without parole illegal for non-homicide cases, there are still the minors who have committed homicides and those who have been sentenced to a life sentence with parole.

The real issue in the United States is the fact that our current prison systems do not seem to be made for rehabilitation. This is especially hard for people of color who get prison time. Besides dealing with general racial bias in the United States, they also have to prove themselves to people who have marked them worse for their prison sentences. In a world where it is already hard to become a successful member of society, a prison sentence makes it even harder to make it. Perhaps it is then unsurprising that globally, anywhere between 25% and 66% of prisoners return to the prison system after being released (O'Sullivan et al.). Other countries have rehabilitation programs alongside their prison systems to help combat this number. In Ireland, a program run by Irish Red Cross volunteers called "Community-Based Health and First Aid" (CBHFA) helps prisoners develop a sense of safety and purpose outside of themselves (O'Sullivan et al.). The four to six month program reduced "cutting" incidences by 90% in participants and helped them develop new identities outside of their previous crimes, putting them back on a path to becoming rehabilitated members of society (O'Sullivan et al.). In the Netherlands, a study assessing factors that went in to completion of rehabilitation programs found that besides a few exceptions, alcohol and drug misuse did not correlate with who did and did not complete their rehabilitation programs set up for them (Bosma et al.). As Napoleon Beazley said, it is not the fact that people in prison systems or on death row do not want to change, but that there is no reason to change. They would not only have to change themselves and commit to that change but would constantly have to prove to everyone that they have changed. While not impossible, it is even harder for people of color who have to prove themselves against biases as well, both in a legal and cultural setting. For people on death row, if rehabilitation is possible, then the reasons for rehabilitation are gone.

There is seemingly no reason for prisoners on death row to work towards fixing themselves, fixing their mistakes, or making themselves a better member of society because they will never again be members of society. This is especially disheartening for minors, who have more of their lives ahead of them and will always be haunted by mistakes made when they were, as Supreme Courts have ruled in at least two cases, not fully developed.

### **Invisible Inequality**

Even while the United States continues to grow economically, bias and racism still continue to play a part to deny people the benefits of growth. Invisible inequality exists and is often, as the name implies, overlooked. Invisible inequality is the inequality hidden by ignoring certain people when researching how growth and benefits have affected the lives of many. It includes overlooking the people in prison systems when figuring out how economic growth has affected the average American. Since economic surveys do not include people in the prison systems, the economic expansion that happened rapidly in the late 1990s did not end up benefitting young black men without a college education as much as it would seem to show (Western, 509).

Though some statistics might show that the quality of life is increasing, it often fails to take in to account this invisible inequality, where a certain amount of people do not count as a normal American citizen. With increasing incarceration of young black men, their consideration when calculating things like economic benefit or quality of life are decreasing (Western, 509).

With black men, especially young black men, getting less recognition in economic calculations, as well as being valued as less of a person by the justice system who systematically discriminates against them, leads to a lot of hopelessness. As Beazley says in his final statement,

there is no reason to change, even if you have grown (Beazley). Similarly, Till was a forgotten figure in the face of the nice young men in military outfits who killed him. Invisible inequality allows the United States to not only forget, but also excuse their treatment of people like Beazley and Till. It does not matter that these two people were cruelly put to death, because this is still a thriving country that cares about its citizens. The United States does not have to worry about equality for people like Beazley or Till when they get rid of people like Beazley and Till. Allowing unfair or unnecessarily harsh punishment like theirs, and like many other black youth's punishments, allow the United States to keep its idea of a thriving, prosperous country.

Hope is perhaps the most important thing to keep while in a prison system. Though that has been taken away from most people who sit on death row for years, awaiting their execution, it is hard to hold on to in normal prison systems. As prisons are currently designed in the United States, they are a punishment. While some might argue that the point of the United States prison system is to protect the public, that argument is flawed. If the point of prisons was to protect the people on the outside, then they would be working on reforming these dangerous criminals they have behind their walls so that when they are released, they are no longer dangerous. Instead, the current prison systems work solely on the idea of retribution: the idea that prisoners are in prison because they deserve to suffer for their actions.

The idea of retribution is even worse when looked at through the lens of a minor. The Supreme Court argues that minors are not fully developed, yet they can be sentenced to long-term punishments, including a life sentence without parole for minors in homicide cases. If this group of people is not fully developed and can not be held responsible for their crimes like an adult can, where is the line drawn? At what point do these under-developed people go from needing extra help and attention to grow into valuable members of society to irredeemable

people that can never change? The line is currently drawn at murder, where a minor who kills someone is considered irredeemable enough to deserve a life sentence without parole, but that should not be the case.

These people are young and will go through a multitude of changes as they grow up past sixteen and seventeen. America is the only industrialized country to sentence minors to life without parole, despite the fact that other industrialized countries understand that no one can judge a person at that stage in their development as deserving of a sentence that harsh without giving them the chance to live. Studies show that brain development is just as prevalent in late teens as it is early teens (“Study”). According to research published in *Health and Medicine Week*, brain development is still as extreme in teens that are eighteen or nineteen as it was when they were fifteen or sixteen (“Study”). Though it seems that most changes happen to teens in their earlier years and their progress slows and comes to a stop around their late teens as they enter adulthood, changes are still happening just as rapidly in these years as in their early formative years.

The issues discussed so far are just general issues within the prison system and any minor within it. This is overlooking completely the fact that minors within the prison system face racial biases. The United States has shown through their justice system that they have decided that African America minors are less redeemable and more deserving of prison sentences than their white counterparts. There is nothing about a black minor that makes them more or less deserving of prison systems, but it is American culture and racism that puts minors in this position.

### **Life for Minors After Prison**

Systematic racism is not only an issue that our prison systems need to change, but the American culture as well. There is a huge cultural stigma around the “dangerous black man” that has led to people believing someone of a different race is more dangerous or prone to crime because of their skin color. This is dangerous for the children who are being brought up in this environment. There are many factors that children cannot control such as their race, financial situation, neighborhood, education and supportive adults present. These factors effect whether they end up turning to dangerous, criminal activities to make up for some of these deficiencies that they cannot control. When they get into the prison system, they are treated harsher and have doorways closed for them. People with criminal records who have served prison time can have harder times finding jobs, participating in our government or even furthering their education. There are job restrictions for felons not only at a federal level, but also for individual states. These disadvantages are being stacked on top of people who are already at a disadvantage, making the odds against them even higher. It all comes back to the idea that change after a prison system is not only hard for those that are already discriminated against, but seemingly impossible. Beazley spoke of a hopelessness for those on death row, but even without the death penalty, it is possible that things could have still been hopeless. It is hard to hold onto hope when the justice system designed to protect people bends over backwards to ensure that certain people receive harsh punishments because of how they look. Similarly, it will bend those same rules to avoid punishing people like Till’s killers because they are white.

Even if minors in the United States are not sentenced to life in prison without parole, the life they have ahead of them is going to be much harder, and it will be more difficult to obtain a better quality of life for themselves, all while considered not fully developed. While there is the possibility of expunging juvenile criminal records, it is not always possible for people to do this.

### **Possible Future Changes in the United States Justice System**

Besides changing the racism within our prison systems, there are other things that the United States can do to make things better for minors facing criminal charges. The first would be to conform to the ICCPR closer. As stated, the ICCRP has a goal of giving people certain undeniable rights, one of which is an individual's right to participate in their government and other such activities. Some ex-felons already have this automatically taken away by felony disenfranchisement laws.

For America to make the international treaties we sign come before the Constitution would be to put the international, collective best for individuals above what the United States considers the best for individuals. It would also allow those who have had their rights violated to report and gain help from an international Humans Rights Committee instead of having to use money and funds they might not have to fight against a system that is already biased.

There is plenty of precedent for the United States ignoring or even disregarding both international laws and treaties (Frappier, 4). Since WWII, the United States has disregarded plenty of international laws and treaties for "protecting American lives and properties" and "maintaining order" (Frappier, 4). This sounds a lot like the excuses of our justice system to continue their biased abuse of the system against those that are not white or rich. It is well established through the actions of the United States that it values rich, white men above others. To not comply with treaties to protect lives, it is most likely working towards bettering or protecting the lives of those citizens that it considers valuable.

However, things might change drastically if the United States were to decide to actually follow and take part in both international law and the international treaties it ratified. Should the

United States actually follow the ICCPR without any of stipulations or over ruling by the Supreme Court or Constitution, the country would be at a much better starting place concerning fair treatment of all of its citizens when it comes to the justice system.

Even if there were an error and someone were to abuse the system and continue acting on something like racial bias, there is not only checks and balances within the system, which could be hard for some prisoners to obtains and gain access to, but also a committee that could have its attention brought to such abuse. Citizens would no longer have to worry about being treated by an inherently biased and racist justice system since they could also fall back and gain support from a human rights committee that, without being submerged in the culture of the United States, could come to more fair rulings and solutions for those being treated unjustly by the system.

This would be especially useful to minors, who are at the will of the system even more so than their adult counterparts. With both an inability to understand and fully comprehend their own actions and ideas, the idea of a minor facing off against a larger system like the entire justice system of the United States is out of the question. They are forced to put their faith in lawyers, most likely free, court-appointed lawyers who do not have the time or resources to fully devote to each case. When the system has already failed them, placing their faith in the system to treat them fairly once they have been sentenced is asking far too much.

## **Conclusion**

Punishment is tool in the United States. It is effective at making the country seem better with invisible inequality. It makes people pay for both crimes they have committed, and the crime of not being born into a culturally advantageous position. One of the many issues with punishment in the United States is that punishment is given not only based on the crime that a

person has committed, but also on a number of factors that a person cannot control. Punishment is heavily affected by a variety of factors, including the systematic racism that has been present and thriving within the United States' justice system since its inception.

The United States has proven time and time again that the lives of people like Emmett Till or Napoleon Beazley do not matter as much as other people's lives. The blatant racism in 1955 that condoned death as an appropriate punishment for going against a cultural norm is still here, beating back progress for people who do not fall in line with what the United States sees as a good person. This thesis has looked specifically at how racism and use of punishment as a tool has affected young black men in particular, but it does not end there. The unfair treatment of young black men is just one of many immoral outcomes for the way that the United States justice system chooses to run.

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