SECURITY AND MATURITY INTERACTIONS: TESTING FRAGILE DISTINCTIONS IN LAW AND PRACTICE WITH MICRO-SOCIOLOGICAL PROPOSITIONS

1 - INTRODUCTION

Most life sentences in the international community allowed for the possibility of parole, but the United Kingdom and the United States were exceptions to this policy position. The US and the UK allowed judicial authorities to sentence offenders to whole life or natural life sentences without the possibility of parole (LWOP). The United States had LWOP sentences not only for persistent and violent adult offenders, but also for serious and violent juvenile offenders. The United Kingdom, on the other hand, reserved LWOP sentences strictly for adults convicted of exceptionally grave and heinous crimes of murder.

Murders that are not adjudged as exceptionally serious are eligible in the UK for indeterminate-life sentences that allow for the possibility of release by the parole board. The trial-judge is required in less serious cases to set a minimum-term of imprisonment before an offender is eligible to apply to the parole board for consideration for release (Vinter and Others v. the United Kingdom 2013: 3). The minimum-terms of imprisonment specified by statute as starting points for indeterminate life-sentences are 15, 25, and 30 years for adults 21 years and above, and 12 years for juveniles under 18. These indeterminate sentences are partly punitive and partly preventive because prisoner imprisonment consists of two distinct phases: (a) the first phase is the punitive phase that involves a minimum-term of imprisonment that the offender must serve for reasons of retribution and deterrence, and (b) the second phase refers to the point after the minimum-term when an offender is assessed to determine if the offender continues to pose a danger or threat to the public’s safety and security (ibidem).

In 2013, the European Court of Human Rights (ECHR) ruled that the UK’s whole life sentences were in violation of Article 3 of the European Convention of Human Rights for the sentencing of adult offenders under Schedule 21 of the Criminal Justice Act (2003). Article 3 prohibits the use of inhuman or degrading punishment. The Court wrote «no issue under Article 3 appears to arise provided there is, in law and in practice, a possibility of the offender being released even though it remains
possible, or even likely that no release will be granted in his lifetime» (ivi: 15).

The prior ruling by the ECHR called into question the presumption that there are some crimes that are so heinous and serious that an offender ought to die in prison. The Court pointed out that an Article 3 issue will arise whenever it can be demonstrated that the continued imprisonment of an offender cannot be justified on penal grounds. Furthermore, it held that no life sentences should be irreducible in law and in practice.

Legislators in the United States enacted LWOP sentences for homicidal and non-homicidal offenses in efforts to get tough on crime (Gothschalk 2011). However, the United States Supreme Court recently ruled that juveniles serving LWOP sentences must have a possibility for release when involved in non-homicidal (Graham v. Florida 2010) and homicidal cases (Miller v. Alabama 2012), but this mandate by the Supreme Court for states to provide juvenile offenders with a «meaningful opportunity» for release has not been extended to adult offenders.

Thus far, sociologists and other social scientists have not systematically evaluated how reviews of indeterminate life sentences are conducted in the United States (Caldwell 2016; Russell 2014). There is also a gap in the Italian sociological literature and other societies in Europe on predicting variations in case outcomes involving the release of offenders serving life sentences. Most of the prior research in the sociology of law and punishment in the United States and Europe has focused on explaining the penal-turn in sentencing policies (Garland 2001; Wacquant 2009) or comparing the characteristics of different penal systems (see Cavadino - Dignan 2006). The sociologist Donald Black (1976; 1983) has developed a theory, however, for predicting variations in how criminal cases are treated at all phases of the criminal justice process (Cooney 2009). His theory of the behavior of law and social control hypotheses that when the rehabilitative and security risks of prisoners seeking release are held constant that variations in release outcomes will reflect variations in the location and direction of social space of the parties and partisans to the case (Cooney 1994).

The purpose of this paper is to review developments in legal jurisprudence in the U.S. with implications for studying actual legal practices surrounding the release of juveniles and young adults serving life sentences. It also examines international norms governing policies in the European Union for the processing of juvenile and young adults in the criminal justice system. Each of these developments in law and policy have explicit assumptions about differences between juveniles and adults with implications for testing propositions from Donald Black’s (1976; 1984) microsociological theory of law and social control. Black (2000a; 2000b) has constructed what he identified as a «pure sociology» that can explain variations in the quantity and direction of various forms of social life, including moral judgments involving issues of social control. As a consequence, his theory holds significant promise for explaining variations in the exercise of governmental discretion in the release of lifers convicted as juveniles or young adults in the United States, Italy, and other member states of the European Union.
In *Graham v. Florida* (2010), the U.S. Supreme Court found sentencing juveniles to life without parole (JLWOP) in violation of the Eight Amendment’s prohibition against cruel and unusual punishments. The court held in this decision that states must provide imprisoned juvenile offenders a «meaningful opportunity for release based on demonstrated «maturity» and «rehabilitation» (Graham v. Florida 2011). Two years after this decision, the Court did not prohibit life sentences for juveniles convicted of an offense of homicide (*Miller v. Alabama* 2012), but ruled instead to limit its use for juveniles whose crimes reflect irreparable corruption (Russell 2014).

The Court provided a further explanation of its reasoning about the limits it was placing on life sentences for juveniles in *Montgomery v. Louisiana* (2016). The Court wrote, «The only difference between *Roper* and *Graham*, on the one hand, and *Miller*, on the other hand, is that *Miller* drew a line between children whose crimes reflect transient immaturity and those rare children whose crimes reflect irreparable corruption» (ivi: 734). This explanation assumes that life sentences ought to be rare, but it is unclear what safeguards and other practices states will put in place to protect minority youth from unfair attributions of irreparable corruption.

Thus far, there is no research on how courts and parole boards are implementing the *Miller* requirements. The U.S. Supreme Court in *Montgomery* called for either the courts or parole boards to revisit the sentences of youth who received life sentences prior to the *Miller* decision (Caldwell 2016). In Arizona, the clemency board will probably handle many of these cases and this board’s current procedures require its members to evaluate the characteristics of the offense, including the aggravating and mitigating circumstances identified at the time of the prisoner’s conviction. In this evaluation of the offense, the juveniles who are eligible for these reviews will have served at least 25 years in prison. Former Chief Justice Rehnquist of the United States Supreme Court considered clemency the «failsafe» of the criminal justice process (*Herrera v. Collins* 1993). Parole boards are considered another type of failsafe that can commute an offender’s life sentence. However, the legitimacy of reviews performed by parole and clemency boards are contingent on whether or not they can overcome distorted social constructions of maturity that can affect a youth’s «meaningful opportunities» for release. Different social constructions of maturity can vary from society to society and can have differential effects on minority and immigrant offenders in criminal justice processes based on their location in social space.

### III - Changing Social Constructions of Adolescence

In criminal justice systems, the point at which an individual is considered an adult has important implications for what kinds of rights and penalties are available in sentencing processes. In a legal symposium on «The End of Adolescence» (2001), Kenneth Nunn wrote, «Adolescence may be described as a period of transition from childhood to adulthood, when those yet to become adults gain greater physical and
...mental abilities than children, but continue to lack the wisdom and judgment possessed by mature adults» (Nunn 2002: 679). Is this period of transition beginning to shorten or has it been extended to college educated and middle-class youth and rarely to minority, immigrant, and other marginalized youth?

Nunn argues (ivi: 681) in his article The child as other: Race and differential treatment in the juvenile justice system that African-American children represent the other in the U.S. that often «defined the boundaries of childhood, adulthood, delinquency and crime». In his view, the other serves as the antithesis or the opposite of self-relevant concerns controlled by dominate groups. Nunn makes the case, by examining key historical trends in the United States that African-American youth were never extended many of the legal benefits and protections associated with childhood. In fact, many of the threatening images of African-Americans in the media resulted in the redefinition of juveniles as adults in criminal law because of stereotypic views of African-American youth as superpredators (Dilulio 1995).

In addition, Nunn (2002) argues that children are the «other» for adults and this «other» has positive and negative characteristics with implications for penal-policies. The positive characteristics are needs that differ from the needs of adults and when these needs are recognized by society they can translate into the kinds of special benefits that have been traditionally extended to youth in the juvenile justice system. However, negative characteristics or needs, such as children needing more control than adults – another hallmark of childhood – involve costs that some societies are unwilling to recognize as equally valid qualities of children that must be taken into account in designing penal policies (ibidem). In effect, these societies are choosing to jettison their responsibilities in meeting developmentally relevant needs of older juveniles by assigning them to a special category of adulthood that lacks access to education and rehabilitative services that are required in most juvenile justice systems. Namely, the education and control needs previously recognized in youthful offender policies are ignored in how many societies treat older juveniles and young adults.

In Europe, unlike the United States, policy makers recognize that youth differ from adults and place youth under the jurisdiction of the juvenile court up-until-age 21. Some countries in Europe also allow young adults, for varying legal and penal rationales, to remain outside of the adult justice system until they are 25 (see Austria and Germany as examples). This extension of principles of education and rehabilitation to youth (18-21) and young adults (22-25) recognizes that the emotional and social maturity of most individuals is unlikely until around 25 years-of-age.

Inasmuch as maturity is not complete until about 25 years-of-age, youth in late adolescence and in young adulthood are at the highest risks for reconviction. This conflation of risk and immaturity requires a balanced policy solution that has not been adopted in many countries. Many societies in the West have adopted very pessimistic policies towards older juveniles who are still developing, and, as a consequence, are rejecting the possibility that many serious and high-risk-juvenile-offenders can change. However, the U.S. Supreme Court in Miller and Montgomery overturned this pessimistic policy option for 15-18 year-olds (polices developed in the 1990s), but it is doubtful whether the Supreme Court and state legislators in the US will extend protections
currently available for juveniles to young adults in keeping with a growing consensus among scientists that young adults possess more developmental qualities in common with adolescents than adults (Modecki 2008; Prior et al. 2011). It is also unclear whether questions of maturity play any role in how decision-makers address opportunities for release in member states of the European Union.

IV - THE SCIENCE OF MATURITY AND CHANGING CONCEPTIONS OF ADULTHOOD

Maturity is recognized as a developmental concept that involves changes in «physical, intellectual, emotional and social development» (Prior et al. 2011: 4). Varying components of each of these domains of development have different significance for maturity and immaturity considerations at different phases of development. Steinberg and Cauffman (1996), for instance, contend that emotional and social development are much more salient in determining the maturity of young adults than intellectual development because these areas are still developing in many young adults. Whereas, intellectual development is usually completed in late-adolescence (Ash 2006; Prior et al. 2011; Vizard 2006), brain development around 25 years-of-age, sexual maturation varies from early adolescence to late-adolescence (Ashford et al. in press) and moral development in early adulthood (Palmer 2003).

The maturity of cognitive and intellectual development has received significant attention in the forensic psychology and psychiatric literature regarding differences in judgment between adolescents and adults (Ash 2006). This research shows that late-adolescents are cognitively mature enough to comply with a number of legally relevant decisions (Cauffman - Steinberg 2000). However, areas of the brain that are not completely developed until the mid-20s are associated with executive functions that reflect what has been characterized in the literature as socially «mature judgment» (Modecki 2008; Cauffman - Steinberg 2000). «Maturity, in this psychological research, is primarily viewed as a measure of the capacity to take decisions that would be regarded as appropriate in adults (and is this fundamentally a normative construct)» (Prior et al. 2011: 9). Yet this normative concern surrounding constructions of maturity has been given minimal attention in the field of sociology even though the effects of experience and context on development are fundamental areas of inquiry in sociology of the life course (Elder 1996).

In developing Steinberg and Cauffman’s (1996) thesis about mature judgment, they relied on Scott and colleagues (1995) assumption that any evaluation of competent judgment or mature decision-making must take into account the interaction of cognitive and psychosocial factors. This approach to studying the judgment of adolescents is relevant for sociologists because it recognizes that maturity of judgment can be due to differences in experience (independent of developmental status), or some combination of both (Steinberg - Cauffman 1996). Indeed, the wider socio-cultural context and the immediate social environment of adolescents provide experiences, or lack thereof, that can influence the development of responsibility and independence in the decision-making of juveniles and young adults (Arnette 2006; Ashford et al. in press).
In most developed economies, researchers are finding that most young adults have such an underdeveloped sense of responsibility and independence in decision-making that Arnette (2006) has introduced a new stage of development known as *emerging adulthood*. This stage of development recognizes that many individuals in the early 20s are still in a transition to adulthood (Ashford et al. 2018). If they are still in this period of transition, then this developmental status ought to require appropriate education and rehabilitation services for the purposes of improving a youth’s capacity for mature judgment. Without these services, it is difficult to assume that juveniles or adults serving life sentences will receive meaningful opportunities to obtain release in the United States (Russell 2014; Van Zyl Smit - Weatherby 2014).

V. Variations in International Norms

The United Nations established minimum rules for the administration of juvenile justice that were adopted by the General Assembly in November, 1985. These rules, also referred to as the Beijing Rules, included a recommendation for extending the protections described in these rules for the administration of juvenile justice to young adults. Similar norms in support of this policy for the treatment of young adults was promulgated by the Council of Europe (2003) in its recommendations to treat juvenile delinquents in new ways. The Council of Europe (*ivi*) wrote, «Reflecting the extended transition to adulthood, it should be possible for young adults under the age of 21 to be treated in a way comparable to juveniles, when the judge is of the opinion that they are not as mature and responsible for their actions as adults» (T2A Alliance 2010: 10). This requirement, like the Miller and Montgomery decisions, require individualized decisions by sentencing authorities.

Germany has embedded many of the international recommendations for treating immature young adults as juveniles into its policies, including flexible decision-making processes for juvenile judges in sentencing young adults between 19 and 21 to the juvenile justice system (Dünkel 2006). In the exercise of this discretion, sentencing a young adult to the juvenile justice system should apply when «a global examination of the offender’s personality and of his social environment indicates that at the time of committing the crime the young adult in his moral and psychological development was like a juvenile, he should be punished according to the JJA (§ 105, 1, No. 1 JJA). The Supreme Federal Court in Germany has interpreted this section to mean when «elements demonstrate that a considerable development of personality is still to be seen» (GGHSt 12: 116; 36: 38).

The Marburg Guidelines provide an overview of the kinds of factors that would suggest that a young adult lacked moral and psychological maturity. However, these guidelines focus on the assessments of maturity at the time of sentencing and not at the point of release as in the United States. Release processes involve a different context that may require modifications in how maturity and rehabilitation factors are considered and assessed in release-decision-making processes in Europe. Yet the research community in Europe has not given much attention to the applied concern of identify-
ing factors that would demonstrate an older offender’s maturity. They also have given minimal attention to identifying factors associated with rehabilitation and the assessment of security risks in older-offender populations.

Parole Boards in the United States, for instance, are often instructed to include standardized risk-assessments in addressing security issues associated with questions of rehabilitation. However, many of these instruments were normed to predict general recidivism across age and maturity levels and not to predict the potential dangerousness of offenders primarily 40 years-old or above. The revalidation of established risk-assessment instruments by social criminologists has shown that the key predictor variables often ignore important dynamic-risk factors germane to the reviews of juvenile lifers (Ashford - LeCroy 1988; 1990). This is in spite of the fact that current reviews of lifers require a determination of demonstrated evidence of change in the prisoner’s maturity and rehabilitation. The prior concerns involve important applied questions affecting the implementation of current legal requirements in the United States and Europe, but they do not explain variations in decisions of actual suitability for release on a case-by-case basis.

VI - TOWARD A PURE SOCIOLOGY FOR EXPLAINING VARIATIONS IN CASE-BY-CASE JUDGMENTS

Cooney (2009) wrote that research in social criminology has focused substantial attention on explaining contributions to deviance, but much less attention to explaining variations in societal responses to deviant behavior. Some exceptions include the seminal contributions in the literature of social control by Garland (2001) and Wacquant (2009). Their theoretical writings on the subject focus on explaining the shifts from correctional and penal welfare to highly punitive responses in sentencing policies that grew out of threats to state security in societies governed by neoliberal economies. The theories of punishment and social control, advanced by these prominent sociologists, recognize changes in the culture of social control, but do not predict case-by-case variations. That is, the primary unit of analysis for these sociologists is the society and not the case.

Other social scientists have focused their attention on understanding factors that can affect attitudes toward offenders. Gilliam and Iyengar (1998), for instance, are widely known for their study of media-effects on public attitudes towards juvenile offenders. Their widely cited experiment examined connections between what people viewed in broadcast news and their attitudes toward juvenile crime. The results of their study is informative because it embedded a «superpredator news frame» within a 15 minute broadcast news scenario that varied the race and ethnicity of the alleged perpetrator of a crime of murder committed by a juvenile. The results of their experiment showed that all groups, even the group of African American viewers exposed to an African-American or a Hispanic script rather than a White or Asian script, raised the participant’s level of fear and this increased level of fear was associated with increased support by the study’s participants for getting tough-on-crime polices for juvenile offenders. Rattan and colleagues (2012) completed
another experimental study, but with explicit implications for the implementation of current legal requirements in the United States. Their experiment showed that «by simply bringing to mind a Black (vs. White) juvenile offender led participants to view juveniles in general as significantly more similar to adults in their inherent culpability and to express support for severe sentencing» (ibidem). The results of each of these studies suggest that variations in judgment outcomes will be rooted in the psychological attitudes of the judges or decision makers.

Peter Tetlock (2002: 452), on the other hand, developed an approach that departs from «psychological theories that have traditionally stressed the intrapsychic functions of judgment and choice and that have placed the isolated Cartesian thinker at the center of inquiry». His approach shifts the focus of analysis from strictly psychological concerns to identifying «the social functions of thought and to the embeddedness of human beings in relations with other human institutions, and the broader political and cultural environment» (ivi: 452). Tetlock’s (2002) social functionalist frameworks identified gaps in prior judgment research by the psychologists Kahneman and Teversky (2001) and Edwards (1962) who relied on functional metaphors that did not take into account important observations by the classical sociologists Durkheim, Weber, Mead and Parsons. In Tetlock’s view, these classical sociologists recognized that there are «psychological prerequisites» that people must have in order to adjust to the specific accountability demands for maintaining social order in varying social contexts (Tetlock 2002). His social functionalist framework introduced the intuitive politician, theologian and prosecutor as alternative metaphors for guiding human judgment researchers, but the primary unit of analysis in these functional frameworks is the mind-set or psychology of the judge(s) (Ashford 2013).

The sociologist Donald Black (2000a) has challenged the field of sociology to jettison the very observations that Tetlock relied on from the classical sociologists in the formulation of his theoretical frameworks. Black (ivi: 704) wrote:

Like classical sociologists, modern sociologists still always explain human behavior psychologically – as a means to an end. They still nearly always explain human behavior psychologically – as something that arises at least partly in the human mind. And they still nearly always explain human behavior individualistically – as the behavior of people. Although social factors (such as the distribution of resources, the structure of relationships, and the content of culture) usually play a role in sociological explanations, their relevance is nearly always teleological, psychological, and individualistic.

Black’s theory is distinct from many sociological theories because his theory’s unit of analysis is social life rather than people. Black contends that «law behaves according to the same principles everywhere – across all legal cases, stages of the legal process, all societies, [and] all times» (Black 2000b: 347). He also treats the behavior of law and other aspects of social life, including social control, as quantitative variables that vary in location and direction in social space.
Parole decisions for lifers include moral judgments about the prisoner’s offense at the point of conviction, the prisoner’s behavior while in prison, evidence of the prisoner’s demonstrated rehabilitation, evidence of moral maturity and psychological development, and assessments of the prisoner’s continued security risks to the community.

In Black’s view, culture will not explain why one lifer is considered suitable for release and another lifer is deemed unsuitable for release when the prior legally prescribed considerations are held constant (Cooney 2009). What he would argue instead is that what explains variations in cases involving these types of legal requirements «is the social structure or geometry of cases – their location and direction in social space» (ivi: X).

In Black’s view, if we decide to stand back from any judgments about cases, then we will see variability in decision outcomes and this variability will be due to the social structure or geometry of these cases and not the legal or policy guidelines. This is not to suggest that some of the variability will be explained by relevant legal and psychological considerations, but that when these factors are held constant that the variability in the social control of lifers will be explained by the social geometry of the case regardless of the society under investigation (ibidem).

In Black’s pure sociology of law and social control, social space is defined by five dimensions: stratification or vertical dimension; morphology or horizontal dimension; cultural dimension; organizational dimension, and normative dimension (Black 1976; 1984; Cooney 2009). In Cooney’s (ivi: 21) view «social space accommodates all the major variables that sociologists have discovered over the years to be important in explaining social life, including social class, the division of labor, social networks and marginality». However, Black’s theory provides an advancement over other sociological theory applied to these variables, because his theory focuses on understanding the relative positions of the parties and partisans in the legal dispute and not predictions provided by a single-social status (Cooney 1994). In Black’s theory, «the relative locations of disputants predict where law will be more likely to increase, as well as the likelihood that some relative positions will produce more law» (Michalski 2014: 4). His theory has six-testable propositions germane to the relative positions of the parties in legal disputes, including predictions of whether law will flow upward or downward. Moreover, his theory predicts how social distances among disputants will attract more law and social control (Black 1976; 1984).

Authorities are granted significant discretion in the U.S. and Europe in releasing juvenile or young adult lifers. «While governmental laws may not structure the realm of discretion [in releasing lifers or sentencing young adults], then, social laws do, and, while discretionary outcomes may not be formally predictable, they are instead, sociologically so» (Baumgartner 1992: 130). This purely sociological view of discretion described by Baumgartner (ibidem) extends Black’s theory of law and social control to a substantive area of law in which variations of law are expected and considered non-predicable – cases involving discretionary justice. Black’s theory assumes, therefore, that the non-predictability of variations in discretionary judgments is «inaccurate and
represents a myth about how discretion operates» (ivi: 129) For this reason, his theory provides a purely sociological approach for examining and explaining the microsociological structure of cases involving rehabilitative forms of discretionary law and social control examined in this paper. Namely, it is argued in this paper that the fragility of definitions in law and practice involving questions of maturity, rehabilitation, and security risks – having potentially differential effects on minority and immigrant youth – are due to variations in the social geometry of cases and not traditional legal, psychological and sociological explanations.

VIII - CONCLUSIONS

Legal questions involving concepts such as transient immaturity, irreparable corruption, rehabilitation and security risks involve discretionary judgments that can afford researchers an opportunity for testing whether the predictions of Black’s theory of the behavior of law and social control are valid across societies and cultures. Italy, for instance, represents an excellent case for validating his theory given the documentation by Cavadino and Dignan (2006) of how youth justice in Italy is influenced by a social economic and political context that differs from the US and UK Cavadino and Dignan’s (2006) highly regarded comparative analysis of penal systems classified the US and UK as neo-liberal countries and Italy, Germany, Netherlands, and France as conservative-corporatist countries (Nelken 2009). These researchers argue that these social economic and political differences in context among countries contribute to variations in punitive and lenient ideologies with implications for understanding penal practices. However, it is argued in this paper that Black would contend that these differences would not explain actual variations in case outcomes and when we treat ideologies as the unit of analysis that this is a major deviation from a purely sociological explanation of the behavior of cases.

Indeed, a number of Italian scholars would argue that the neoliberal narrative that has dominated much of the ink in the punishment literature of the West about the increased use of punishment across the globe does not fit the Italian case (Gallo 2015; Melossi 2001; Pavarini 1997). As Melossi (2001: 403) wrote, «in order to understand the quality and quantity of punishment (as measured by imprisonment) between Italy and the United States, it is necessary to situate the specific punitive histories of these two societies within their cultural traditions» (ibidem). This kind of cultural approach widely adopted by Italian scholars not only departs from sociologists from neoliberal societies (Garland 2001), but also from Black’s fundamental theory for explaining variations in the quantity of law. That is, Black and other researchers in his tradition (see Baumgartner 1992; Cooney 2009) have called into question the extent to which penal ideologies (emanating from the social economic and political contexts) and cultural traditions can explain actual variations in case outcomes after holding constant relevant legal considerations. This is not to suggest that they do not offer invaluable explanations about variations in styles of punishment, but not necessarily about variations in case outcomes.
Thus, the primary aim of this paper was to clarify how Black’s theory calls into 
question traditional psychological approaches for examining variations in human 
judgment outcomes. Unlike many psychological approaches of human judgment and 
choice, Black’s approach does not treat variations in judgment outcomes as errors in 
rationality as do many decision making frameworks in psychology. In addition, he 
would not define variations in judgments of risks and rehabilitation as evidence of dis-
cretion as would many legal scholars (see Hawkins 1992), but as a function of the loca-
tion and direction of the parties in social space. His purely sociological approach is not 
without controversy, but has been tested extensively in the United States (Michalski 
2014). Many of the tests have not focused, however, on the validation of specific propo-
sitions germane to his microsociology of the case and its applicability across societies 
and cultures.

This paper identified developments in case law and international norms that will 
allow for not only testing the validity of his theory in the US and Italy, but also other 
member states in the European Union. In effect, this paper relied on Black’s theory to 
argue that the fragility of definitions in law and in practice calling for the considera-
tion of a juvenile’s maturity in sentencing and release decisions is best described and 
explained by examining the location and direction of the parties in these decision-mak-
ing processes rather than the vagueness of social constructions of adolescence, defi-
ciences in the legal rules and/or guidelines, cultural variations or the mind-set of the 
decision makers. Inasmuch as immaturity is associated with diminished culpability, it is 
also closely associated with risks. As a consequence, the decision processes examined in 
this paper warrant closer scrutiny by the research community given their implications 
for addressing security concerns.

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