

Death Penalty To Juvenile Offenders Is Cruel and Unusual Punishment

By Alon Barlevy, PhD.

The death penalty is a lightning rod issue, where many people have strong convictions on both sides of the debate. As part of our "evolving standards of decency," in recent years the Supreme Court has placed limits on the application of the death penalty. In 2002, by a 6-3 vote, the Supreme Court determined that execution of mentally retarded persons is "cruel and unusual punishment" prohibited by the Eighth Amendment to our Constitution.

COLUMN LEFT

Last week, the Supreme Court added more constraints on the applications of death penalty by voting 5-4 in *Roper v. Simmons* that it is "cruel and unusual punishment" to execute juvenile offenders. The practice of executing inmates who committed their crimes prior to reaching 18 years of age has been permitted in 20 states, but since 1976 only seven of the states (Texas, Virginia, Oklahoma, Georgia, Missouri, Louisiana and South Carolina) have actually carried out these executions. Of the 22 juvenile executions since 1976, Texas carried out over half (13), four of which were under the watch of then Gov. George W. Bush.

Until last week's ruling, the United States found itself in a dubious position as being one of only eight countries that have executed juvenile offenders since 1990. Joining us on the list were countries such as Iran, Saudi Arabia, Yemen, Pakistan, Nigeria, China and the

Democratic Republic of Congo (DRC). Not exactly a great list to be on. Even Iraq, under the rule of Saddam Hussein, did not make the list!

The list has been shrinking. Since 2000, only half of the eight countries have continued to execute juvenile offenders. This left us in a group with Iran, Pakistan and the DRC. Both Pakistan and the DRC have already banned the execution of juvenile offenders, and there is a bill in the Iranian Parliament to ban this practice. We are therefore very fortunate that Justice Anthony Kennedy cast the swing vote to make sure we are not left as the only country in the world to administer this barbaric practice. As former chief justice Earl Warren said, the Eighth Amendment prohibiting cruel and unusual punishment "must draw its meaning from the evolving standards of decency that mark the progress of a maturing society." If juveniles are not considered old enough to be held accountable to sign a contract, why would we hold them to account by imposing on them the strictest form of punishment our society can impose?

Justices Antonin Scalia and Clarence Thomas, whom President Bush declared as his most ideal justices, voted to continue allowing states to impose the death penalty on juvenile offenders. Since Bush has already stated that he would like to appoint more justices like Scalia and Thomas, it is up to the Senate to ensure that that does not happen.

By Alon Barlevy, PhD., is President, Hubert Humphrey Democratic Club

Text of Article

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