Execution Of Juveniles Essay, Research Paper

Adult Punishment and Juvenile Justice

Day after day in this country there is a debate going

on about the death penalty and whether we as people have the

right to decide the fate of another persons life. When we

examine this issue we usually consider those we are arguing

about to be older men and women who are more than likely

hardened criminals with rap sheets longer than the height we

stand (Farley & Willwerth, 1998). They have made a career of

crime, committing it rather than studying it, and somewhere

along the line a jury of their peers decided enough was

enough. They were handed down the most severe and most

final punishment of them all, death. Behind all of the

controversy that this issue raises lies a different group of

people that are not so often brought into the lime light,

juveniles. This proposes a problem entangled with another;

if we do decide to carry out death sentences, what is the

minimum age limit? Can we electrocute, lethally inject, or

gas any one who commits a crime that is considered capital?

In this paper the issue of capital punishment for

juveniles will be discussed, basically laying out a

comprehensive look at the matter. First we will briefly

look at the history of both juvenile justice and the history

of the death penalty in regards to juveniles. Secondly we

will take a short look at the two major court cases that

dealt with this issue in the United States. Next this paper

will present the factual statistics of the death penalty for

juveniles and also take a look at our country’s stance on

the issue in the international arena. We will then spend a

short time looking at some views on the juvenile death

penalty, reasons for the death penalty itself, and the

arguments for and against the death penalty for juveniles.

Lastly we will conclude with a few thoughts about the issue

and the implications that we might have to consider.

The history of the death penalty being imposed on

juveniles spans all the way back to almost the beginning of

our country. In 1642, Thomas Graunger of Plymouth Colony,

Massachusetts, was the first juvenile, to be sentenced to

death and executed in our country for a crime that he

committed (Executions, 2000). Since the start of capital

punishment (or the recording thereof) in 1608, there has

been around 19,200 executions in the United States of all

ages. Of that total number, experts believe approximately

356 of them were juvenile executions, meaning that the crime

that the individual was sentenced for took place before the

offender was eighteen years of age (Gonnerman, 2000). This

accounts for about 1.8% of all executions from the start of

capital punishment to present (Executions, 2000). Since

1973 there has been 196 death sentences handed out to

juveniles and seventeen of those have ended in actual

execution (Streib, 2000). Table 1 lists those seventeen

individuals that have been executed since 1973, their date

and place of execution, their race, and their age both when

they committed their crime and when they were executed.

The juvenile justice system was born in 1899 at which

time it was recognized as separate from the regular justice

system that dealt with adult offenders (Ricotta, 1988). At

the start, the stated objectives of the juvenile justice

system was “…to provide measures of guidance and

rehabilitation for the child and protection for society, not

to fix criminal responsibility, guilt, and punishment”

(Ricotta, 1988). By the stated objectives it would seem as

though rehabilitation would be one of the most important

goals of the juvenile system. So how are we able to decide

now that a teenager is past the point of rehabilitation and

deserves the final punishment? Or does the obligation to

“protect society” become more overwhelming and leave us with

no other option but to put someone to death? These are just

a few questions that one might ask about our present goals

in comparison to the initial goals that were established

from the start. Next we will discuss the two pivotal court

cases that set the precedent for our current juvenile death

penalty statutes.

William Wayne Thompson, only fifteen years of age, and

three older persons were all found guilty of first degree

murder back in December of 1983. He was convicted of

murdering his brother-in-law in a most “heinous, atrocious,

and cruel” (Ricotta, 1988) way. After the district court

decided that their was “no reasonable prospects for

rehabilitation” (Ricotta, 1988) it was decided that he would

be tried as an adult. The Supreme Court of the United

States had to decide whether he could then be subject to

adult punishment which brought up the question of the eighth

amendment’s “cruel and unusual punishment” clause. The

Court justified the use of adult punishment by coining a

phrase that was used often in the written opinions by the

Justices. They stated that the discretion would be left up

to judges to determine the “evolving standards of decency

that mark the progress of a maturing society” (Ricotta,

1988) since they could not resolve what the writers of the

Constitution explicitly meant by cruel and unusual.

In this case, Thompson vs. Oklahoma (1988), the

Justices concluded that fifteen year olds were not prepared

to assume the responsibilities of an adult (Ricotta, 1988).

To this day no state allows the death penalty to be

appointed to any person under the age of sixteen. The next

year in Stanford vs. Kentucky (1989), the courts emphasized

the notion that the eighth amendment does not prohibit

juvenile execution for those age sixteen or seventeen (Beck,

1999). These cases are the key events in the development in

this issue. There are also International laws that speak of

this topic.

Steven Hawkins, director of the National Coalition to

abolish the Death Penalty, quotes in the article Dead Teen

Walking that “[w]e should be embarrassed to find ourselves

in [the] company” (Farley & Willwerth, 1998) of countries

such as Pakistan, Saudi Arabia, Iran, Nigeria, and Yemen.

These were the only countries outside the U.S. that still

used the death penalty for juveniles up until two years ago.

Currently, the U.S. is the only country in the world that

practices this punishment for juveniles (Streib, 2000). The

International Covenant on Civil and Political Rights

(Gonnerman, 2000) and the United Nations (UN) Convention on

the Rights of the Child (Amnesty, 1997) both outlaw the

death penalty for persons under the age of eighteen. The

U.S. ratified the former in 1992 and has yet to ratify the

latter. The UN Convention goes one step farther than this

discussion and also outlaws life imprisonment without parole

or juveniles (Amnesty, 1997). The U.S. definitely does not

look good when it comes to this subject when compared to

other countries, countries that are known for human rights

violations, and countries that decided to ratify the

International law.

So who are the “kids” that are committing these crimes

that force us to be in this debate in the first place?

Almost all the juveniles given the sentence of death are

male, 98% of the total (Streib 2000). Two-thirds of the

juveniles are minority offenders (Streib 2000), 20% being

Latino and the other 43% are African American (Gonnerman,

2000). One statistic of particular interest is that 80% of

the victims of these juveniles are adults (Streib 2000), not

kids their own age.

As of June 2000, their were seventy-four juveniles

under death sentence, the majority of which are in Texas.

Texas houses 26 of these young felons, one third of the

national total (Whitman, 2000), and has executed nine of the

seventeen that have been executed since 1973. Besides the

seventy-four sentenced to die currently and the 17 that have

been executed since 1973, there have been another 105

adolescents that have their sentences reversed (Streib

2000). On an even more individual note, a study was

conducted in 1988 of fourteen juvenile offenders.

Conclusions showed that all the individuals had serious

psychiatric problems, twelve had been abused as children,

and only two of the young people had IQ’s above ninety

(Farley & Willwerth, 1998). These similarities may help to

explain the reasons that some of the juveniles are awaiting

death, however this paper does not explore that issue.

The U.S. undoubtedly leads the world in juvenile

executions. Ten out of the nineteen juveniles to be

executed since 1990 have been in the U.S. (Gonnerman, 2000).

We average about ten death sentences per year according to

Victor Streib, the topics leading researcher (2000). There

are forty jurisdictions in the U.S. that allow capital

punishment at all; thirty-eight states, and the federal

government on the civilian and military side. Of these

forty jurisdictions nineteen allow the death penalty for

those sixteen and older (Promises, 1999), five for age

seventeen year and older, and the remaining sixteen states

only allow execution for adults, those eighteen and older

(Streib 2000).

Even though these statistics seem to be somewhat spread

out among the states the truth is that the majority of the

sentences are handed out by judges in three states; Texas,

who has already been mentioned as the leader in the juvenile

execution topic, Florida, and Alabama (Streib, 2000). And

the numbers will more than likely only rise. Between 1983

and 1998 the death sentencing rate for juveniles went up

124% (Beck, 1999) and with the surge of young violence

continuing and legislatures “getting tuff” on juvenile

crime, that number will only rise. We want to move on now

and look closer at capital punishment itself and its effect

on juveniles as a punishment or lack there of.

In a letter to Mr. Gerald Garrett, chairman of the

Texas board of pardons and paroles, Mr. Lois Whitman pleaded

that “…children and adolescents are different from adults.

They lack an adult’s experience, perspective, judgment,

maturity, and restraint” (2000). Mr. Whitman is the

Executive Director of the Children’s Rights Division and was

writing this letter on behalf of Gary Graham who was

sentenced to death at the age of seventeen. Many people

share this view that juveniles are at an age where they

should be held responsible for their actions, but punishment

as severe as death is too extreme. That may be the

viewpoint in Texas, however out in Los Angeles the tides

turn a bit. One citizen there believes that if a kid can

commit an adult crime they should face adult consequences

(Farley & Willwerth, 1998). Out in Los Angeles they have a

problem that makes them feel a bit different about “innocent

little children.” Gangs often use young kids to go out and

be the “trigger pullers” because they know that the younger

kids might not have to face capital punishment (Farley &

Willworth,1998). This shows two different sides to the coin

on how people view this issue and some of the differing

reasons.

In Beccaria’s often quotesd writing On Crimes and

Punishment, he gives us his foundational reason for

punishment; “[P]unishmnets and the means adopted for

inflicting them should… be so selected as to make the most

effacious and lasting impression on the minds of men with

the least torment to the body of the condemned” (1995). By

this definition we then ask the question, is death the least

possible means of correcting our juveniles? Later on

Beccaria goes on to give his view on the death penalty. He

believed that there were only two reasons to put one to

death; if after losing his freedom he still poses a threat

to the nation or if “his death is the true and only brake to

prevent others from committing crimes” (1998).

The Supreme Court in the ruling of the Thompson case

struggled with two key terms to try and justify capital

punishment for teenagers, retribution and deterrence. The

result of their assessment of these two ideas in

relationship to juveniles seemed to show that capital

punishment was not a very effective punishment. From the

retributive standpoint, the justices concluded that it could

not be applied to juveniles because of their potential and

capacity to grow and their lower standard of “culpability”

(Ricotta, 1988). From the deterrent standpoint, they

questioned whether a certain age would be more deterred than

another based on the assumption that teenagers do not really

engage in a cost-benefit analysis before they commit their

crimes (1988). Finally, the overall assessment, whether

inconclusive or not, was that without retribution and/or

deterrence, capital punishment “is nothing more than the

purposeless and needless imposition of pain and suffering”

(1998). Thompson’s sentence was eventually reversed and his

case set a precedent still in use today.

Victor Streib outlines a few arguments for and against

a juvenile death penalty in his collection of research. We

will look at a few of each starting with the arguments for.

The first argument is that the problem that we have with

teenagers committing homicide is much more severe than in

other countries (2000). Juveniles also do not respond very

well to punishment that is less harsh, forcing the need for

more intense corrections, which is the second argument. The

third reason deals with our political leaders and their

strong emphasis on “harsher punishments” (2000). The last

argument for the juvenile death penalty is simply that we

can not solve the root of the problem, the “societal

conditions which breed violent juvenile crime.” Therefore

we must try to correct the problem through the end result

which is punishment for the crime (2000).

The first argument against the juvenile death penalty

deals with the study that was mentioned above. Many of

these kids come from very bad backgrounds and therefore they

have not had the chance to grow up and mature and move on

from this difficult time in their life. The second reason

opposers hold is that kids of the age we are referring to

are not deterred from crime by the death penalty because

they have “little realistic understanding of death and

instead tend to see themselves as immortal” (2000).

Thirdly, opposers believe we must try and start at the root

of the problem and improve societal conditions and our

neighborhoods (2000). Lastly, another popular view comes

from the Thompson case where one justice commented that

“…executing [Thompson] eliminates all prospects of

rehabilitation and affords no more protection for society

than secured imprisonment” (Ricotta, 1988). This reason

basically charges the death penalty with giving up on our

youth and not offering the chance to reform themselves.

The youngest juvenile executed by the government was a

young boy in the country of Yemen (Executions, 2000). He

was only thirteen. And while this may seem out of touch for

our society we must look at the pros and cons of this issue

and evaluate our punishment of juveniles. If we do not, it

will be only a matter of time before our thirteen year olds

are so out of control to the point where a jury will vote

“yes” to take that boy’s life away. To date, the youngest

juvenile executed in the U.S. was Sean Sellers of Oklahoma.

He was executed in early 1999 for a crime he committed when

he was sixteen years old (Promises, 1999). With the

Presidential election coming up as well we need consider the

implications that might take place if the Governor of Texas,

the state that executes more juveniles than any other state

in our nation becomes elected. What will this mean for the

nation? This brief overview of the juvenile death penalty

should help awaken us to some of the issues and future

implications that are associated with this issue.

9f2

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