Forum

Make Death Penalty for Youth Available Widely

By Chad A. Bender

The United States is one of a few countries in the world that has the death penalty for juveniles. However, there is no evidence that the death penalty for juveniles is necessary or effective. In fact, studies have shown that states that have abolished the death penalty for juveniles have seen a significant decrease in juvenile crime.

Instead of focusing on the harshness of the death penalty, we should be focusing on rehabilitation and providing young offenders with the support they need to turn their lives around. This includes access to education, job training, and mental health services. By prioritizing rehabilitation, we can reduce the cycle of crime and create a safer society for all.

Bench Candidates Tout Their Qualifications

LA SUPREME COURT CHALLENGES IN WRIT JUDGMENT

Daniel L. Borenstein: District Attorney of Los Angeles County

I am a water provider, and I have been in the water business for over 30 years. I understand the complexities of the water industry, and I am committed to providing quality water to our residents. I believe in transparency and accountability, and I am dedicated to protecting the environment. My experience in the water industry makes me the best choice for this position.

Richard E. Wold: Judge of the Superior Court

I am a former judge, and I am dedicated to upholding the law. I have a strong understanding of the legal system, and I am committed to ensuring that justice is served. I believe in the importance of community involvement, and I am actively involved in local organizations. My experience and dedication make me the best choice for this position.

Global AIDS Fight Requires Mandatory Testing

By Richard Heffelfinger and Richard Farman

The United States is one of the few countries in the world that has not implemented mandatory testing for HIV. This is a missed opportunity to save lives and prevent the spread of the disease.

Mandatory testing would ensure that everyone who is HIV-positive is aware of their status and can take steps to protect themselves and others. It would also help to reduce the stigma associated with HIV and encourage more people to seek out treatment.

We must act now to implement mandatory testing for HIV. It is the responsible and compassionate thing to do.
Make Death Penalty for Youth Available Widely

Chad A. Readler

If the United States is to have a death penalty, and 38 states and the federal government have said that we should, then the penalty should be available in nearly all instances in which someone commits a capital offense, including when the offender is 17. Rather than declaring the penalty cruel and unusual when it is applied to a juvenile offender, states, local prosecutors and, in the end, judges should decide the punishment that fits each capital crime.

Just 27 juveniles have been sentenced to death in the past four years in our country. This does not show that the practice has fallen out of favor but rather that judges are wielding their power in a wiser, fair and selective manner.

The most notorious juvenile case in recent memory is that of Lee Boyd Malvo, the 14-year-old who participated in a series of murders in Virginia and Maryland. After convicting him, Malvo’s Virginia jury spared him the death penalty.

There is no reason that other juveniles in Virginia and around the nation should not be afforded the same opportunity to weigh the evidence.

This is the issue the U.S. Supreme Court will address in Roper v. Simmons, seven months after his 10th birthday. Christopher Simmons committed a premeditated murder and was sentenced to death. Last year, the Missouri Supreme Court overturned his death sentence, holding that the Eighth Amendment prohibits the execution of individuals who commit a capital crime before the age of 18.

In reaching this conclusion, the Missouri Supreme Court relied largely on the Supreme Court’s recent decision in Atkins v. Virginia, 536 U.S. 304 (2002), in which the Supreme Court held that the execution of mentally retarded criminals constitutes “cruel and unusual punishment” in violation of the Eighth Amendment.

In Atkins, the Supreme Court cited the “evolving standards of decency” reflected by those states that had prohibited executing the mentally retarded, thereby creating a constitutional doubt on the practice. According to the Missouri Supreme Court, similar national standards have evolved in the juvenile context.

That was true of course: In Thompson v. Oklahoma, 487 U.S. 875 (1988), the U.S. Supreme Court found no national consensus against the execution of those who commit capital crimes at 16 or 17. And little has changed.

Today, of the 38 death-penalty states, 22 permit the execution of some juveniles. That is 50 percent, meaning that, if there is any consensus on the issue, it is not a strong one.

Indeed, 30 percent of the voters in Florida recently voted to add juvenile offenders to the class of people eligible for the death penalty.

Opponents of the juvenile death penalty have turned to public opinion polls, which they believe cast doubt on the acceptability of the practice.

To gain traction, these polls should shape the Supreme Court’s constitutional jurisprudence, much as a�lmsation proposition, polling seems particularly uncertain in this setting. Although the Supreme Court has held that the death penalty may not be imposed on those younger than 18, that fact alone is not made clear in these surveys, which merely ask whether respondents oppose the death penalty for “juvenile” or “children.” One may quickly imagine a young person who has engaged in behavior that leads to death for bringing a gun to school and shooting his teacher because he was upset about not being allowed in the playground the day before.

That is a far different case from a 14-year-old committing a premeditated and serious murder. Indeed, it is a far cry from Simmons’ circumstances. After telling his friends he was going to murder a woman and by pulling his victim off of a bridge, Simmons did just that. With the help of a friend, he broke into a woman’s home, forced her out of bed, bound her hands, put duct tape over her eyes and mouth and hauled her into the minivan.

After driving the victim to a rural trailer where he and another person, they bound her feet and completely covered her face with duct tape.

Then, while his victim was still alive and conscious, he pushed her off the road, then threw her body into the river far below.

Unlike Simmons’ prediction on how he would carry out the murder, his other prediction was that he would “get away with it” because of his juvenile status, did not come true.

Simmons was convicted of murder and sentenced to death by a Missouri jury. Thus, while opinion polls suggest that most Americans may agree with the use of capital punishment for juvenile offenders, many may not see a difference when they consider the facts of a specific case.

Death-penalty opponents are equally quick to turn to international standards, noting that most other nations do not. This practice is of scant help in a debate over an emerging national standard, however, it is difficult to see what value international standards bring to the debate.

Furthermore, our numbers rate exceeds 30 percent of the juvenile population in every European country, and many in those countries oppose the death penalty entirely — a fundamentally different debate.

Our criminal justice system is otherwise protections for criminal defendants than those in a host of other nations; an offender will not be put to death in our country without the benefit of representation and not before a jury of his or her peers if he or she has found him or her guilty and a host of appellate courts have affirmed the conviction.

As a matter of constitutional jurisprudence, the Supreme Court has been reluctant to hold that any punishment violates the cruel and unusual prohibition, including laws that impose the death sentence on habitual offenders who have three or more prior convictions against them. Courts do not routinely find constitutional violations and when it comes to Eighth Amendment jurisprudence, generally do so only in the presence of a clearcut national consensus.

Against this legal backdrop, the execution of those who commit capital offenses at 16 or 17 does not constitute cruel and unusual punishment.

Drawing the line at 18 seems inconsistent with our view of today’s teenagers, and how the law’s general treatment of minors.

As a practical matter, in today’s pro-growth society, our children are growing up faster than at any time before.

And as a legal matter, some states do not classify 17-year-olds as juveniles and allow those younger than 18 to stand trial as adults.

This does not mean, of course, that every 16- or 17-year-old who commits a death-eligible offense should be executed.

This decision should be left to the states and local prosecutors and, ultimately, to judges. Rather than a national prohibition based on conflicting interpretations of debatable survey data, citizens at the state and local level should decide this issue against the backdrop of specific cases.

If citizens and legislators are opposed to this practice as a matter of policy, they can, as some have done, may be able to do so through the Constitution — by amending the Constitution. This is the way people have decided the death penalty and the 14-year-old case.

Perhaps the best reflection of local confluence comes through the jury. At this point, the jury decides whether a death eligible offender younger than 18 deserves this ultimate punishment.

The offender’s age, maturity, mental culpability, background, character and capacity will all be issues at trial and the penalty phase where these characteristics may be deemed “mitigating” factors weighing against a death sentence.

In Simmons’ case, many of these matters also were raised during jury selection. Only after these issues are considered and debated may a death sentence be imposed, thereby removing the penalty for the most heinous of offenders.

But should Simmons and his supporters prevail, the penalties will not be available to a aggravating and the jury in the case of a juvenile offender, regardless of the crimes committed, the war they were committed, and the number of victims.

It is exceedingly difficult to think that the nation’s leading de facto states and juries has “evolved” into an accepted national principle.