

Equal Justice and Equal Protection - 1999

Justice, justice shall you pursue...
(Deuteronomy 16:20)

Issue

The unequal treatment of minorities in the criminal justice system in the United States including the threat to basic protections for young people in the criminal justice system.

Background

At its 22nd Biennial Assembly in 1959 Women of Reform Judaism declared that “we believe that in the light of recent scientific knowledge and concepts of humanity the resort to or continuation of capital punishment either by a state or by a national government is morally unjustifiable.”

In 1972 the Supreme Court declared in *Furman v. Georgia* that the existing capital punishment laws violated the 8th Amendment’s protections against “cruel and unusual punishment.” In 1976 the Supreme Court in *Gregg v. Georgia* upheld a new series of capital statutes that promised equal justice. Since that decision the evidence is overwhelming that there are serious racial disparities in charging, sentencing and imposition of the death penalty. Since 1991 the US Court has restricted the rights of death row prisoners to challenge their convictions and sentences in federal courts.

In 1997 the American Bar Association called for an immediate moratorium against the death penalty to halt executions in the United States until the judicial process is overhauled. The use of sophisticated scientific procedures and the dedication of journalists and lawyers have led to the release of at least seventy-five death row inmates who were found to be innocent of charges that led to their receiving death sentences.

A recent report by the Department of Justice shows that the prison population has more than doubled over the past twelve years with African-Americans being treated inequitably at every level of the criminal justice system. Women prisoners are disproportionately women of color with African-American women comprising 46% and Hispanic women comprising 14% of the prison population. Minorities are arrested more frequently, convicted more frequently and punished more harshly than white offenders.

Studies show that much of the reason for this racial disparity in prosecution and punishment is the systematic profiling of racial minorities as drug traffickers. Profiling is a method that police officers use in instituting traffic stops and searches. Currently the U.S. Customs Agency is being investigated for disproportionately targeting Black women in drug searches. Recent high profile cases in New York City have exposed what has been a growing problem of the use of excess force by police and law enforcement agencies in their treatment of minorities.

Racial disparity in the juvenile justice system, called Disproportionate Minority Confinement (DMC) exists when the proportion of minority group juveniles detained or confined in secure detention facilities and correctional institutions exceeds the proportion of such groups in the general population. Statistics indicate that an African-American youth is twice as likely to be arrested and seven times as likely to be placed in a detention facility than a white youth.

In spite of the fact that there has been a significant decrease in overall serious violent and property crime

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committed by juveniles in the past few years the recent highly publicized school shootings have focused the nation's attention on the need to find ways to control juvenile crime. Police chiefs and other law enforcement officials are speaking out in support of child care and after-school programs as positive investments in crime prevention and the safety and well-being of children.

Women represent the fastest growing population in prison. Sixty-seven percent of women incarcerated in state prisons are mothers of children under eighteen years of age. Very often the impact on children is alienation, hostility toward authority, failure in school and overall dysfunction. Nationwide more than 50% of the troubled children in the juvenile justice system have a parent in prison. Alternatives to jail and prison have been legislatively endorsed for more than twenty years; they are used informally and routinely for middle-and upper class offenders who often never set foot in a courtroom. Community service work, restitution, probation, deferred sentencing, supervised release and house arrest all cost less than imprisonment and keep families together.

Resolution

In recognition of Judaism's mandate to seek justice and to do justice, Women of Reform Judaism reaffirms its longstanding opposition to capital punishment and continues to endorse a fair and impartial criminal justice system throughout the United States. Women of Reform Judaism calls on its affiliates in the United States to:

- 1) Continue to advocate the abolition of the death penalty, and until that event:
 - a. Endorse a moratorium on executions in this country until jurisdictions implement policies to ensure that death penalty cases are administered fairly, impartially and in accordance with due process to minimize the risk that innocent persons may be executed.
 - b. Educate their members to work for legislation that will allow federal prisoners to challenge their death sentences using standards normal in civil racial discrimination cases.
- 2) Join in coalition with community groups to work for the elimination of discriminatory profiling by law enforcement personnel.
- 3) Support local and national efforts, including training programs and Police-Civilian Review Boards, to improve relations between police departments and the communities they serve in order to insure accountability and eliminate police brutality and misconduct.
- 4) Encourage local initiatives to deal with the problem of disproportionate number of minority youth in the juvenile justice system, including assessment and the development and implementation of intervention strategies.
- 5) Advocate for legislation to make schools and communities safer by investing in child care, early education and constructive after-school activities for children and youth, without consideration of socioeconomic and ethnic background.
- 6) Call for legislation at all levels of government to require effective gun safety and gun control measures, such as safety lock devices to be sold with handguns, to reduce children's access to guns.
- 7) Become familiar with local and national efforts to develop alternatives to incarceration and work for services and programs, especially for mothers in prison, that offer alternatives to imprisonment and serve the real needs of the individual and the community.

Moreover, WRJ urges its affiliates worldwide to support such efforts as applicable in their countries.

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