

March/April 2003 Washington Report to Presbyterians

## **Stop Allowing Juvenile Executions**

By Jessica Tate

The writers of the Bill of Rights to the Constitution understood the value of human rights. They rightly understood us to be an evolving species, continually learning how to live and behave with one another in this world. The Eighth Amendment to the Constitution grants us protection from cruel and unusual punishment as defined by an “evolving standard of decency.” The death penalty is subject to this evolving standard. However, the United States falls short of acknowledging this standard in its current use of capital punishment to punish juvenile offenders.

In the past 12 years, the United States has executed more juvenile offenders than other nations combined. The only seven countries to execute juvenile offenders since 1990 are Iran, Nigeria, Pakistan, Saudi Arabia, Yemen, the Democratic Republic of Congo, and the United States. During the year 2000 only three of these actually executed a juvenile offender: the DRC, Iran, and the US. Furthermore, in 2002, the US was the only country to execute a juvenile offender.

Thirty-eight states within the US use the death penalty as ultimate punishment. Of these 38, only 22 permit execution of juvenile offenders. They are Alabama, Arizona, Arkansas, Delaware, Florida, Georgia, Idaho, Kentucky, Louisiana, Mississippi, Missouri, Nevada, New Hampshire, North Carolina, Oklahoma, Pennsylvania, South Carolina, South Dakota, Texas, Utah, Virginia, and Wyoming. Fifteen of these currently have a juvenile offender on death row and only 7 have executed a juvenile since 1976. The states that allow the execution of juvenile offenders should discontinue this practice for medical, legal, and moral reasons.

New brain research completed by Harvard Medical School demonstrates that a brain is not fully developed until early adulthood, ages 18-22. The frontal and pre-frontal lobes of the brain regulate impulse control and judgment and are the last to develop. According to the American Academy of Child & Adolescent Psychiatry, the rate of brain maturation can be severely slowed by childhood abuse and neglect. Most juvenile offenders on death row have experienced such conditions. Given this research on brain development, society must determine whether use of our highest form of punishment is appropriate for those scientifically proven to have limited culpability.

In the 2002 *Atkins v. Jones* case the US Supreme Court ruled that execution of mentally retarded persons violates the Eighth Amendment evolving standard of decency. The Court cites several factors of change in its decision: opinions of various professional organizations, “diminished capacities” of mentally retarded

persons, legislation enacted by states that prohibits that execution of mentally retarded persons, and a special risk of wrongful execution faced by those less able to assist counsel or to assure accurate confession. Because of the brain research showing adolescent brains are not fully functional, execution of juvenile offenders should be banned by the same reasoning.

The religious community opposes the use of the death penalty. The American Baptist Churches in the USA, the American Friends Service Committee, the American Jewish Committee, the Christian Church (Disciples of Christ), the Episcopal Church, the Evangelical Lutheran Church of America, the Mennonite Church, the Moravian Church in America, the Presbyterian Church USA, the Unitarian Universalist Association, United Church of Christ, the United Methodist Church, and the US Catholic Conference all have policies denouncing the death penalty. In particular, the Presbyterian Church has a long history of opposition to the use of capital punishment.

The 212<sup>th</sup> General Assembly (2000) reaffirm[s] the positions of the 171<sup>st</sup> (1959), 177<sup>th</sup> (1965), and 189<sup>th</sup> (1977) General Assemblies of the United Presbyterian Church, and the 106<sup>th</sup> General Assembly (1966) of the Presbyterian Church U.S., and the 197<sup>th</sup> General Assembly (1985) of the Presbyterian Church (U.S.A.) (Minutes, 1985, part I, p. 682) and declare its continuing opposition to capital punishment.

Calls for an immediate moratorium on all executions in all jurisdictions that impose capital punishment.

Directs the Stated Clerk of our General Assembly to communicate the call for an immediate moratorium and our continuing opposition to capital punishment to the President of the United States, our representatives in Congress, as well as the Governors and legislators of the thirty-eight states with persons incarcerated while awaiting execution.

In addition, the General Assembly affirms that all children are children of God who God created good. As such, the Assembly goes on, all children have a right to be children [1993 Statement – PC(USA)].

In accordance with these Presbyterian policies, as well as policies of many other faith traditions, it is clear the execution of minors is no longer acceptable under the evolving standard of decency.

The United States prides itself on being in the forefront of human rights worldwide. However, in the use of the death penalty for juvenile offenders, the US lags behind the rest of the world. The world has evolved to a new standard of decency based on medical research, legal precedent, and moral authority as presented by the religious community. The states that still allow juvenile offenders to be executed should reassess their policy.

*This article is informed by information provided by the American Bar Association and the National Coalition to Abolish the Death Penalty.*