

PROCEEDINGS  
OF  
THE RABBINICAL ASSEMBLY

כנסת הרבנים

NINETY-SIXTH ANNUAL CONVENTION



The Concord Resort Hotel  
Kiamesha Lake, New York

MAY 5 to MAY 9

NINETEEN HUNDRED NINETY SIX

ט"זרכ' אייר תשנ"ו

VOLUME LVIII

## Resolutions Adopted

### RESOLUTION ON CAPITAL PUNISHMENT

WHEREAS the Torah teaches that all human beings are created in God's image;

WHEREAS Jewish tradition upholds the sanctity of life;

WHEREAS both in concept and practice rabbinic leaders in many different historical periods have found capital punishment repugnant;

WHEREAS no evidence has been marshalled to indicate with any persuasiveness that capital punishment serves as a deterrent to crime;

WHEREAS legal studies have shown that as many as 300 people in this century have been wrongly convicted of capital crimes;

THEREFORE BE IT RESOLVED that The Rabbinical Assembly oppose the adoption of death penalty laws and urge their abolition in states that have already adopted them;

That The Rabbinical Assembly urge the enactment of laws that mandate that some capital crimes be punishable by life imprisonment without parole;

That The Rabbinical Assembly offer support and speak out on behalf of the victims of violent crime and their families;

That The Rabbinical Assembly encourage its members to send this resolution to their appropriate elected officials.

### RESOLUTION ON PRAYER IN PUBLIC SCHOOLS

WHEREAS organized prayer in public schools infringes on the constitutionally guaranteed separation of Church and State in the United States; and

WHEREAS organized prayer in public schools debases distinctive religious expression, vital to maintaining particularistic religious beliefs; and

WHEREAS a moment of silence for the purpose of silent prayer and silent meditation represents the introduction of school prayer in the public schools; and

WHEREAS the institutionalization of prayer in a public school setting, spoken or silent, fosters a religious exercise that has a coercive effect on many students; and

The Rabbinical Assembly • **התאחדות הרבנים**

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Marshall Dayan  
DO Rev 3687

## RESOLUTION ON THE DEATH PENALTY

*Adopted by the JCPA 2001 Plenum  
Monday, February 26, 2001  
Washington, D.C.*

The Jewish Council for Public Affairs (JCPA) historically has stood in opposition to the death penalty and, in February 2000, joined the American Bar Association's call for a death penalty moratorium until issues of fairness, impartiality, and the risk of error are resolved. That call was spurred by new information about the likelihood that wrongfully convicted individuals could be executed. The JCPA also urged the appointment of a commission to study the frequency with which death row inmates have later been found to be not guilty and the factors that contribute to wrongful convictions. At both the federal and state level, death penalty studies show racial bias and poverty continue to play a role in determining who is sentenced to death. Recent U.S. Justice Department findings, in a review that is ongoing, reveal both racial and geographic disparities in the administration of the federal death penalty. The study has found so far that just a handful of U.S. attorneys accounted for 40 percent of federal death penalty cases and that members of minority groups were represented disproportionately among those on federal death row.

Of 21 federal prisoners currently facing death sentences, 17 are members of racial/ethnic minorities. Today, more than half of those on death row nationwide, both state and federal, are people of color. Nearly half of those executed by states in the last two decades have been minorities. Further, studies documenting the role of poverty in death penalty disparities reveal a failure to provide adequate representation for indigent people accused of capital crimes and inadequate funding to enable those defending them to prepare proper defenses.

In light of these data, the JCPA reaffirms its call for a federal and statewide death penalty moratorium. Both supporters of the death penalty and opponents, such as the JCPA, are concerned about flaws in the system by which the government imposes sentences of death. We must not allow the understandable desire for punishment to overshadow the impartial pursuit of justice. The JCPA therefore, further resolves to:

- Urge that the study of factors that contribute to wrongful sentencing and convictions include racial disparities, disproportionality based on geographic location and income status of defendants, and adequacy of representation of capital defendants;
- Urge the federal and state governments to provide legal mechanisms whereby persons sentenced to death can challenge their convictions or sentences, despite the passage of time, on the basis of reliable scientific information, such as DNA testing, not available at the time of trial or post-conviction proceedings.

- Call on the federal and state governments to provide for the collection and analysis of data to determine the extent, if any, to which disparate treatment of those sentenced to death is attributable to race or ethnicity and to act to eliminate disparities, where they exist;
- Consistent with previous JCPA positions, call upon state legislatures in those states that do not impose a death penalty to reject calls for enactment of death penalty legislation;
- Support recommendations of the American Bar Association, calling for the imposition of a moratorium on use of the death penalty by the federal government and all 50 states, to remain in force until policies and procedures can be implemented to ensure the fair and impartial administration of death penalty cases, and to minimize the risk that innocent people might be executed. These include:
  1. Assurance that all those accused of capital crimes receive competent counsel at every step in the judicial process, with adequate funding for a fully investigated defense;
  2. Measures to preserve, enhance, and streamline the authority and responsibility of federal and state courts to exercise independent judgment on the merits of constitutional claims in state post-conviction and federal habeas corpus proceedings;
  3. Elimination of discrimination in capital sentencing on the basis of race of victim or defendant; and
  4. Provisions that inhibit execution of mentally retarded people and those who were under the age of 18 at the time of their offenses.

## OPPOSING CAPITAL PUNISHMENT

45th Council  
November 1959  
Miami Beach, FL

### OPPOSING CAPITAL PUNISHMENT

We believe it to be the task of the Jew to bring our great spiritual and ethical heritage to bear upon the moral problems of contemporary society. One such problem, which challenges all who seek to apply God's will in the affairs of men, is the practice of capital punishment. We believe that in the light of modern scientific knowledge and concepts of humanity, the resort to our continuation of capital punishment either by a state or by the national government is no longer morally justifiable.

We believe there is no crime for which the taking of human life by society is justified, and that it is the obligation of society to evolve other methods in dealing with crime. We pledge ourselves to join with like-minded Americans in trying to prevent crime by removal of its causes, and to foster modern methods of rehabilitation of the wrongdoer in the spirit of the Jewish tradition of *tshuva* (repentance).

We believe, further, that the practice of capital punishment serves no practical purpose. Experience in several states and nations has demonstrated that capital punishment is not effective as a deterrent to crime. Moreover, we believe that this practice debases our entire penal system and brutalizes the human spirit.

We appeal to our congregants and to our co-religionists, and to all who cherish God's mercy and love, to join in efforts to eliminate this practice which lies as a stain upon civilization and our religious conscience.

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## Resolution Adopted by the CCAR

### Capital Punishment

**Adopted by the CCAR at the 90th Annual Convention of  
the Central Conference of American Rabbis  
Phoenix, Arizona, March 26-29, 1979**

In 1958 and again in 1960, the Central Conference of American Rabbis stated its opposition to all forms of capital punishment.

We reaffirm that position now. Nothing which we have observed during the intervening years has shaken our convictions that:

- a. Both in concept and in practice, Jewish tradition found capital punishment repugnant, despite Biblical sanctions for it. For the past 2,000 years, with the rarest of exceptions, Jewish courts have refused to punish criminals by depriving them of their lives.
- b. No evidence has been marshaled to indicate with any persuasiveness that capital punishment serves as a deterrent to crime.
- c. We oppose capital punishment under all circumstances.



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## American Jewish Committee's Statement on Capital Punishment

### Capital Punishment

While Jewish Biblical tradition mandates the imposition of capital punishment under certain rare circumstances, rabbinical interpretation of that tradition has required such procedural assurances with respect to the application of the death penalty that rabbinical interpretation, in effect, virtually prohibits it. Thus, AJC opposes capital punishment in general as cruel, unjust and incompatible with the dignity and self-respect of man.

The agency's belief that capital punishment "degrades and brutalizes the society which practices it" resulted in its joining an amicus brief in *Thompson v. Oklahoma* (1988), in which the Supreme Court held that the Eighth Amendment's prohibition against "cruel and unusual punishment" prohibits the execution of those who commit capital crimes while under the age of 16.

AJC has also filed briefs more recently in two landmark Supreme Court cases involving capital punishment: *Atkins v. Virginia* (2002), in which the Court held that the Eighth Amendment bars execution of persons with mental retardation, and *Roper v. Simmons* (2005), in which the Court ruled that executing individuals who were under the age of 18 at the time they committed a capital crime violates the Eighth Amendment. In both cases, AJC filed briefs together with a diverse coalition of religious communities, urging the court to consider the voices of religious and religiously affiliated institutions when assessing "evolving standards of decency," the standard for reviewing Eighth Amendment claims.