

# Point of View

## GUEST EDITORIAL

By Warren G. Jackson  
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### The Unenforceable Law

By definition, a law is a binding custom or practice of a community; a rule of conduct formally recognized as being enforceable by a controlling authority. Civilized society understands the need for laws to protect the individual and his property, and to insure order and justice. There are good laws and bad laws, but one thing is for certain: there are an abundance of laws.

Having a law is one thing, enforcing it however, is quite another matter. There are far too many laws already on the books that are ill-received, unrealistic and unenforceable. The current brouhaha over public smoking restrictions that is taking place in our cities and in Congress threatens us with several more.

If every law written over the past 200 years by federal, state and municipal governments were either adhered to or a punishment levied on violators, the state of Alaska would not be large enough to house all the offenders. Why should we even want to concern ourselves with castigating the jaywalkers, the skinny-dippers and the cigarette smokers of America, when our sidewalks teem with pickpockets, muggers and pushers of drugs?

A law that is unenforceable is destined to fail even before the ink recording it is dry. Consider Prohibition. It did not stop the use of alcohol. In fact, banning liquor and its advertising in some ways only enhanced its image to those young people who were challenged by the idea of trying something "illegal". The law went a long way to establish a new cottage industry called bootlegging; it also denied tax revenues to government and allowed some highly experimental substitutes to go straight from the bathtub to the speakeasy shelves.

This nation is faced with the task of having to fight a record number of serious crimes. We cannot stop the sale of crack in our schoolyards and neighborhoods or put an end to grand auto theft. We cannot stem the proliferation of shootings on our public streets or curtail what seems to be a wave of white-collar crime. It may be easier to go after the regular, law-abiding citizen whose only crime is that he wants to have a cigarette in peace, but when the shopkeeper spends all his time guarding the penny candy, one has to wonder who's minding the cash register.

## To Be Equal

# Court Affirms Death Penalty Bias

By John E. Jacob

The Supreme Court, by a slim 5-4 majority, left standing state death penalties that have been proved to result in discriminatory sentencing.

It was a shameful decision that violates common sense and constitutional guarantees of equal protection of the laws, as well as the constitutional ban on cruel and unusual punishments.

The case involved a Georgia black man sentenced to death under that state's laws. A study of the death penalty in Georgia found a clear relationship between the sentence and the race of the victim.

Where a murder victim was white, only 11 percent of those charged with the killing — and 22 percent of blacks accused of killing whites — were sentenced to death. But where the victim was black, only one percent were sentenced to death.

Those statistics demonstrate clear bias — murders of blacks are considered less serious and less worthy of the ultimate sentence than murders of whites. The findings are replicated by other studies of the death penalty in other states.

The Court's minority found the evidence compelling. Justice Brennan noted that the studies prove that the

race of the victim is the single most important factor in imposing the death penalty.

The Georgia case illustrates that. The study of Georgia's death sentencing experience weighted 230 factors. Applied to the case before the Court, the probability was that had the defendant been white, he would not have been sentenced to death.



John E. Jacob

Previous decisions by the Court said that the death penalty was constitutional but only if imposed consistently and fairly. Now the Court's majority says that sentencing discrepancies are inevitable.

The Court's irresponsible attitude toward irrational sentencing is matched by its irresponsible attitude toward the racial discrimination so amply proved by the statistical studies placed before it.

In effect, the majority said: "Well, the statistics show that blacks are more likely to get the death sentence, but we can't apply those findings to any specific case — you have to prove discrimination by the judge or jury."

That's an impossible standard — and the Justices,

cloud if they too show racial disparities.

And anyway, Powell writes, don't bring these inequities to a court. They're something for legislatures to deal with.

That abdication of the responsibility to safeguard constitutional protections is indefensible. If racial disparities exist in sentencing, then they are unconstitutional and the Court should say so.

When constitutional rights are violated, courts should

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who are not dim, must know it.

It's hard not to feel that there was a hidden agenda behind the Court's decision. Justice Powell, author of the majority opinion, writes that if the Georgia defendant's claim of racial disparity in sentencing is upheld, then sentencing for all kinds of crimes would be under a

correct the violations, not pass the buck to political bodies who passed the laws in the first place.

Sooner or later we'll come to understand that the state shouldn't be in the execution business and that a civilized society has no place for either state executions or racial discrimination. The Court's decision takes us further away from that goal.

## CHILD WATCH

### Promoting a Positive Black Male Identity

By Marian Wright Edelman  
President  
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"I got angry looking at the images of black men in the media and elsewhere."

"I got angry every time I would turn on the television news and somebody had been killed: it was generally done by a black male or a black male was the victim."

These frustrations were recently expressed by Courtland Lee, a black psychology professor at the University of North Carolina. They are shared by millions of black men who feel that they are the victims of a negative stereotype that is imprinted on each new generation of our youth.

But Lee did not just get angry. "I decided I was going to do something about

it," he says. He developed a counseling program for black male teens called "Black



Marian Wright Edelman

Manhood Training: Body, Mind and Soul," that is designed to promote a

positive black masculine identity. His program model is now in use in junior and senior high schools in North Carolina and elsewhere, as well as in a pilot church-based program in New Orleans.

The counseling program draws on one of the traditional strengths of the black community: its creativity. With the help of a trained counselor or community leader, the black young men use the songs,

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