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No death for child rapists

THE ISSUE It's easy to demagogue the U.S. Supreme Court's decision barring the death penalty for child rapists - and Alabama Attorney General Troy King was quick to oblige.

'Anybody in this country who cares about children should be outraged . . . They are creating a situation where this country is a less safe place to grow up.'

Is Alabama Attorney General Troy King referring to terrorists? Street gangs? Pedophiles?

No. According to King, the people endangering kids are justices on the U.S. Supreme Court who on Wednesday overturned a Louisiana law that made child rape punishable by death.

It's easy to demagogue the court's decision, as King proves. It's politically popular, too. Child rapists deserve no sympathy, and as far as a lot of us are concerned, even death is too good for monsters who prey on children.

But in this country, even our most defensible emotions don't define justice. The Constitution does.

For decades, courts allowed states to execute people for crimes that did not involve taking a life. In Alabama, death sentences were imposed for burglary, robbery and, much more regularly, rape. (Almost all the executed rapists, incidentally, were black men - a reminder of our less-than-stellar judicial past.)

But since 1964, nobody in this country has been executed for a crime not involving homicide. The Supreme Court ruled since then that a death sentence was not an appropriate penalty for rapists whose victims are adults.

In 1995, though, Louisiana enacted a law allowing death sentences for those who rape children. Four states followed suit, and others, including Alabama, at least have toyed with the idea.

Those who support these laws say child rape is so harmful and brutal that it justifies a death sentence - a viewpoint the Supreme Court didn't entirely discount.

In Louisiana, Patrick Kennedy was sentenced to death for raping his 8-year-old stepdaughter, a single attack which caused such severe internal injuries that emergency surgery was required. Justices acknowledged the girl endured more emotional and physical suffering than she would have in "a sudden killing by an unseen assassin."

"We cannot dismiss the years of long anguish that must be endured by the victim of child rape," the court said. "It does not follow, though, that capital punishment is a proportionate penalty for the crime."

Among other things, justices said trying to impose death sentences for child rapists could create more suffering for the victims, and that it might be counterproductive to the interests of justice. Rather than deterring child rape, it might lead to less reporting of such crimes involving family members, and it might actually serve as a perverse incentive for rapists to kill their victims.

But in a strange way, the best argument against the death penalty, period, came in a dissent from Justice Samuel Alito. Alito's opinion, joined by three other justices, argued a convenience store robber whose accomplice shoots the clerk shouldn't be considered more worthy of death than someone who kidnaps, rapes and tortures a number of children.

In our view, Alito's argument raises the ultimate question: Are we, as humans, capable of making fair decisions about who deserves to die for their crimes? The News believes the answer is no, that the decision is best left for a perfect judge.

That doesn't mean we want these predators running free. Lock them up, forever. While it might be gratifying to see child rapists put to death, we don't have to execute them to protect children. Despite what Troy King says.

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