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Section: A

How to make Alabama's death row less crowded

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How to make Alabama's death row less crowded ALABAMA, THE death row capital of the old Confederacy. Hmmm ... It doesn't exactly sound like a winning slogan. But it does, unfortunately, have the advantage of being true. A new study by The Associated Press shows that Alabama has a 60 percent higher ratio of death row inmates to total residents than does the next highest-ranked Southern state, North Carolina. That's a huge difference. It's not exactly a statistic to make an Alabamian proud; and it makes Alabama the third-worst state on this issue in the entire union.

Both the advocates of capital punishment and its opponents agree that the situation needs improving, but each (not unexpectedly) offers a different explanation for how the situation develops. This is, however, one of those rare instances where opposing sides of an issue can both be correct.

Opponents of the death penalty note that Alabama is one of only four states that allow for a death sentence without explicit jury concurrence in the sentence. In this state, a trial judge can overturn a jury's recommendation for a lighter sentence and instead, unilaterally, impose the death penalty. Naturally, this boosts the numbers of convicts assigned to death row.

``Nearly 25 percent of the people on Alabama's death row got only- life sentences rather than the death penalty- from juries,'' said Bryan Stevenson, an attorney with the Equal Justice Initiative. ``Without judicial override, we would automatically have 25 percent fewer people on death row.''

He's right.

Far more important than his statistic, though, is the moral argument against death sentences imposed by judges alone. In matters of life or death, Western ideals demand the utmost caution. Man is fallible, so communal consensus - as represented by a unanimous jury - should be required for decisions of such weight. Life or death is far too big an issue to place in any one judge's hands.

Last November, the Register's editorial board highlighted the case of Monroeville's Walter McMillian, convicted of murder. A jury recommended life imprisonment without parole; a judge upped the sentence to death. Before the sentence could be carried out, though, new evidence surfaced that proved Mr. McMillian wasn't even guilty of the crime. If he had been executed in the interim, the judge would have been solely responsible for the death of an innocent man. No single person, not even the wisest judge, should have such power over another person's life.

On the flip side of the issue, supporters of capital punishment argue that once convicts are placed on death row, they remain there too long. The point is strong. Alabama is the only state that sends appeals of death sentences through two distinct appellate courts. Before the state Supreme Court can review the case, the state Court of Criminal Appeals must do so. It's an

entirely unnecessary step, especially considering the extensiveness of the review the Supreme Court must perform.

As it is, the average time between conviction and execution in Alabama is an excruciating 14 years. That's too long, for both the victim's loved ones and for the convict, to wait for justice.

For far too long, Alabama's Legislature has refused to fix the system at either the front end or the back. The only sensible course, in order to make justice more swift and more sure, is to allow only juries to impose the death penalty. Then, once imposed, its appeal should go directly to the Supreme Court for the ultimate review.

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