

JEWS ARE CHANGING OPINIONS ON DEATH PENALTY

Do you believe that a murderer should never be put to death?

Apparently, a number of American Jews are changing their opinion on that subject. Last week at the NJCRAC conference in San Francisco, representatives of the national and local Jewish public affairs agencies decided to reassess their old position. That old position had been to oppose the death penalty -- under any and all circumstances.

They decided to reassess that old position because surveys show that the American Jewish population is now very much in favor of capital punishment. A decade ago, American Jews were much more opposed to the death penalty than was the general population. But a recent and typical survey showed that only one out of five Jews, and only one out of five of all other Americans, want to abolish the death penalty.

Of course, a number of the constituent Jewish organizations -- such as, notably, the Union of American Hebrew Congregations -- are not going to change their opposition to the death penalty; and are going to try to persuade the NJCRAC not to do so. They say that the death penalty is contrary to "Jewish values" and should be opposed as a matter of principle, no matter what the surveys show.

What "Jewish values" and the "Jewish tradition" have to say about the death penalty has long been a subject of much debate. If one were just to thumb through the Torah, one would find much support for capital punishment. Again and again, in Deuteronomy and in Numbers, we are told that a murderer "shall surely be put to death." And in chapter 21 of Exodus, there is an explicit list of crimes calling for capital punishment, including the prescription that one who curses his father or mother "shall be put the death."

But rabbinic and Talmudic Judaism has tended to modify those biblical prescriptions. It has been pointed out, for example, that in Numbers it is required that "the murderer shall be slain at the mouth of (at least two) witnesses." In that vein, Jewish tradition gradually developed a number of restrictions in the use of the death penalty. For example, circumstantial evidence was not admissible. The Talmudic version of the "smoking gun" was a sword dripping with blood, in the hands of a man standing over a murdered man. Such evidence was cited as specifically inadmissible. There were so many restrictions, finally, that, according to some, it became virtually impossible to enforce the death penalty in Jewish law.

The NJCRAC also took its position against the death penalty in 1973 on grounds that it was being unequally enforced. It was a fact that black murderers were more likely to be executed than white murderers. It was also asserted that there was no proof that the death penalty was a deterrent to murder (although there was no proof that the death penalty was not sometimes a deterrent). Finally, it was suggested that when the government took a life, it was by example deepening the cycle of violence.

But that tide of thought has apparently turned -- among Jews and everyone else. The growing fear of crime has been a major factor. Almost nine out of ten Bay Area Jews now believe that "there should be longer sentences for criminals." And there is a return to the belief that, with proper restrictions, the death penalty is an important symbolic act whose avoidance, in the words of Rabbi Simeon ben Gamaliel, "would multiply spillers of blood." That is not so much a matter of direct deterrence, but of long-range deterrence. It is a matter of society taking a stand, setting standards. That is why Israel has retained the death penalty for crimes against humanity.

Is the tide of opinion turning in the wrong direction? Should the Jewish agencies modify their opposition to the death penalty? What do you think?