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On 10 September 1993, 17-year-old Christopher Simmons was arrested at school by police investigating a local murder. The State of Missouri plans to execute him for that crime on 5 June 2002. Whose interests will be served by this new killing eight and a half years in the making?

Christopher Simmons was taken from school to the police station. There, without a lawyer or other adult present, three officers interrogated the teenager about the murder of Shirley Crook, whose body had been found in the Meramec River the previous day. During the interrogation, a senior police officer entered the room. He told the suspect that he was facing the death penalty or life in prison and that it would be in his “best interest” to tell the truth. After this officer left, the three others repeated what he had said. Christopher Simmons confessed to the murder – the prosecution opted for the death penalty. It would appear that the state believes that it is in Christopher Simmons’s best interests to kill him.

The rest of the world has adopted the opposite view. A total of 191 countries – all but the USA and the collapsed state of Somalia – have ratified the Convention on the Rights of the Child. Article 3 of this treaty states: “In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration”. Strapping a young offender down to be killed by government executioners cannot be compatible with this obligation, regardless of the gravity of the crime. Indeed, 111 countries have abolished the death penalty in law or practice, even in the case of adult offenders. Further clarity in the case of children comes in article 37 of the Convention on the Rights of the Child, as well as article 6(5) of the International Covenant on Civil and Political Rights. Both prohibit the imposition of the death penalty against child offenders, defendants who were under 18 at the time of the crime. It is a ban now so widely respected that it has become a principle of customary international law, binding on all countries no matter which treaties they have or have not ratified.

Having violated international law by choosing to pursue the death penalty, the prosecution then went so far as to encourage the jury to think of Christopher Simmons’s young age as an aggravating rather than a mitigating factor – a reason for the jurors to vote for death rather than life. “Let’s look at the mitigating circumstances”, the prosecutor argued. “Think about age. Seventeen years old. Isn’t that scary? Doesn’t that scare you? Mitigating? Quite the contrary I submit. Quite the contrary.” It seems that the prosecutor did not even have the best interests of US law at heart. The federal Eighth Circuit Court of Appeals condemned him “for teetering on the edge of misstating the law” – the US Supreme Court had ruled in 1982 that the age of a minor must be a “mitigating factor of great weight” in capital cases. In June 1993, a year before Christopher Simmons was tried, the Supreme Court had ruled that “a sentencer

in a capital case must be allowed to consider the mitigating qualities of youth in the course of its deliberations over the appropriate sentence”, and pointed to the greater scope for a young offender’s rehabilitation.

In its 1982 ruling, the Supreme Court pointed out that “youth is more than a chronological fact. It is a time and condition of life when a person may be most susceptible to influence and to psychological damage... the background and mental and emotional development of a youthful defendant [must] be duly considered in sentencing”. The jurors were not in a position to consider this in Christopher Simmons’s case, as they were not given the evidence of his mental health problems or the physical and emotional abuse to which he had been subjected by his alcoholic stepfather, who had also introduced him to alcohol as a toddler. Unbeknownst to the jury, Christopher Simmons had subsequently taken to abusing alcohol and drugs from a young age.

Another child who appeared at Christopher Simmons’s trial was his younger brother. He, with other family members, testified at the sentencing in an attempt to have the jury vote for life rather than death. The prosecutor subverted this testimony too, suggesting that the family would be better off if their relative were to be killed by the state: “Show some mercy to his family, give him death... Look at his little brother. [He] said it all. Someday I want to grow up to be just like [Christopher]. To be just like him. Spare those kids of that.”

The prosecutor was clearly not representing the best interests of his profession. Under the United Nations Guidelines on the Role of Prosecutors, adopted in 1990, prosecutors must “at all times maintain the honour and dignity of their profession” and “perform their duties fairly, consistently and expeditiously, and respect and protect human dignity and uphold human rights”. The Eighth Circuit found that his comments had “no place in an American courtroom”. It warned him “to consider the implications of placing the burden of an execution on the shoulders of a child, even if that burden exists only in the child’s mind or in prosecutorial rhetoric”.

Nevertheless the Eighth Circuit decided that the prosecutor’s “improper” comments had been harmless. With the death sentence intact, Missouri is therefore on the brink of committing an irrevocably harmful act, and one which will cause further damage to the reputation of the United States. Since Christopher Simmons was arrested in 1993, there have been 17 executions of child offenders documented worldwide, one in Democratic Republic of Congo, three in Iran, one in Nigeria, two in Pakistan, and 10 in the USA. In December 2001, Pakistan’s President announced that he would commute the death sentences of all young offenders on death row in his country. No such leadership has been forthcoming in the United States. So will killing Christopher Simmons be in the best interests of a country which President Clinton characterised in August 2000 as the “leading force for human rights around the world”, or one which President Bush said in his State of the Union address on 29 January 2002 will “always stand firm for the non-negotiable demands of human dignity” and choose the “dignity of every life”?

Perhaps death penalty supporters will argue for this execution on the grounds of deterrence or retribution. It could be pointed out that the murder of Shirley Crook occurred soon after Missouri last killed a child offender. Frederick Lashley was put to death on 28 July 1993 for a murder committed when he was 17 years old. His execution did not deter the killing of Shirley Crook six weeks later. At the same time, the retributive killing of Christopher Simmons would represent an appalling memorial to Shirley Crook. Surely that is in no one’s interests.

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