



Key Facts: *Kennedy v. Louisiana*

On April 16, 2008 the U.S. Supreme Court will hear oral argument in *Kennedy v. Louisiana*, where the Court is asked to decide whether a Louisiana statute that imposes the death penalty for child rape is constitutional. Thirty years ago, in *Coker v. Georgia* (1977), the Court held that capital punishment was an excessive penalty for the aggravated rape of a sixteen year old girl because the crime, while heinous, did not involve the taking of a life.

Recent History and Current State of Laws

- The last execution in America for any kind of rape was in 1964.
- Forty-four states prohibit the death penalty for rape of a child.
- Louisiana is the only state in which a defendant has been sentenced to death for non-homicide rape in over thirty years. Since Louisiana enacted its statute in 1995, only two defendants have been sentenced to death for this offense.
- Four other states allow the death penalty for child rape, but only if the defendant is a repeat offender (Texas, South Carolina, Oklahoma and Montana). The applicability of Georgia's capital rape law is unsettled, though it too would require an aggravating circumstance such as the prior conviction of an unrelated rape or murder. No one has been sentenced to death under these statutes.
- There are about 3,300 people on death row in the United States. Kennedy is one of two people on death row who did not commit a murder.
- Since *Coker*, at least six state legislatures have rejected proposed legislation to impose the death penalty for child rape. Texas was the most recent state to adopt legislation authorizing the death penalty for child rape in 2007. South Carolina and Oklahoma adopted such laws in 2006.
- No other Western nation authorizes the death penalty for any kind of rape.

Possibility of Error

- In recent years, more than a dozen people wrongly convicted of child rape were exonerated by DNA evidence. (The Innocence Project, [www.innocenceproject.org/know/.](http://www.innocenceproject.org/know/))

Victims

- Child sexual abuse is one of the most underreported crimes. According to one study, 83 percent of female rape survivors under the age of 18 did not report the abuse to authorities. (See Rochelle F. Hanson *et al.*, *Factors Related to the Reporting of Childhood Rape*, 23 *Child Abuse & Neglect* 559, 564 (1999).
- The offender is often someone the victim knows and cares about. In one study of rapes of girls under the age of 12, 96 percent of the victims reported that they knew the rapist -- with the father being the offender one-fifth of the time. (See Patrick A. Langan & Caroline Wolf Harlow, U.S. Department of Justice, *Child Rape Victims*, 1992 2 (June 1994).
- In a study that evaluated child abuse survivors ten years after they had testified in court, having to testify repeatedly was associated with poorer mental health and more trauma-related symptoms. (See Jodi A. Quas *et al.*, *Childhood Sexual Assault Victims: Long-Term Outcomes After Testifying in Criminal Court* 72 (2005).