

# Against mandatory sentencing debate essay



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A mandatory sentence is one where judicial discretion is limited by law; those convicted of certain crimes must be punished with at least a minimum number of years in prison. The most famous example of mandatory sentencing is the 'three strikes and you're out' policy adopted first in California in 1994, and now more widespread in the USA. "Three strikes" laws require life imprisonment for a third criminal conviction, but other forms of mandatory sentencing are now being discussed and implemented in various countries.

The British Home Secretary Michael Howard implemented a three strike policy in Britain in the mid 1990s, implementing a mandatory minimum three year sentence for a third conviction of burglary. Australia's Northern Territory in 1997 introduced mandatory sentences of one month to one year for the third offence regarding property and theft. In the USA possession of more than a small amount of a drug is punished by a mandatory harsh sentence. Mandatory life imprisonment has also been proposed in the US Congress for a second sexual offence against children.

The British government has proposed a mandatory five year minimum prison sentence for anyone convicted of carrying a firearm illegally. In addition to these mandatory prison terms, some countries employ a system of 'mandatory restorative justice', whereby the criminal has to apologize to the victim, rather than one of imprisonment. (Jacqueline Rose Claire College idebate.

org) The reason why I am against mandatory sentencing is because studies show that the greatest deterrent effects come from an increased fear of

being caught and the length of sentence is insignificant to criminals who believe they can act with impunity. We should focus instead upon increasing the size and effectiveness of the police force as well as other deterrent measures such as closed circuit television cameras, better street lighting, and alarm systems. According to the website Famm. org about 6 in 10 Americans oppose mandatory prison sentencing for some non violent crimes. Additionally 57% (famm. org) are likely to vote for a candidate who wants to end mandatory sentencing. 72% Afro American that are incarcerated.

And between the ages of 18-24 is 71% (famm. rg) Also another website I researched was PrisonPolicy. org and it states that Black and latino offenders receive under the zone law is unwarranted by statistics on drug use by race. (prisonpolicy. org) The reason why I am against mandatory sentencing is since the Democratic justice is not necessarily a good thing. When asked to calculate sentences, the public's response tends to match that of the judges fears that reporting a minor offense would lead to harsh punishment might actually discourage victims coming forward. In the same way, jurors concern that mandatory sentencing might result in disproportionately harsh punishment of convicted defendants could encourage them to acquit against the evidence- this sometimes occurred in the 19th century when crimes such as theft carried by the death penalty. The chances of recidivism are hugely increased when and individual comes into contact with other members of the prison population.

Life imprisonment under " 3 strikes" when the 3rd felony is relatively minor and perhaps 30 years after the earlier crimes is a disproportionate punishment. Previous offenders have already been punished, and can be

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taken into account by the judge during sentencing. Restorative justice does not work in every case. It is only forced on criminals under 30 and was shown to be ineffective in dealing with drug crimes thus it only works in cases where victim and criminal would not normally meet. Mandatory minimum sentences waste public resources warehousing nonviolent drug offenders without “ reduc[ing] drug addiction or the problems associated with drug use, thus having scant impact on the reduction of drug use and crime,” the resolution states. More than two decades of experience in the United States have proven that the substantial costs of incarcerating drug offenders would be better used “ to fund drug treatment and harm reduction programs, alternatives to incarceration, employment opportunities and human services.

” U. S. Criminal Lawyers Warn Against Mandatory Minimum Sentencing Schemes.

(2010, August 16). Targeted News Service, page 1. Retrieved March 8, 2011, from Research Library. (Document ID: 2112542531 mandatory sentencing removes the possibility of judicial discretion: the punishment should fit the crime.

Each case differs enormously in the details of the crime and the circumstances of the convicted defendant, which include the risk of their reoffending and the possibilities of rehabilitation. Judges must have the power to weigh all these complicated factors carefully in determining a just sentence. The annual increase in growth was projected at 14%, which places an enormous strain on already overcrowded prisons.

In addition, most states will find it difficult, at the least, to pick up the slack for increased costs, as the burden of " New Federalism" falls upon them. The study found that the propensity of states to " get tough on crime" has contributed to the growth of the inmate population. Fithian, Nancy. (1983, February). Overcrowding reaches record level.

Off Our Backs, 13(2), 13. Retrieved March 8, 2011, from Research Library. (Document ID: 659261661). I feel that mandatory sentencing is a blunt instrument that would be particularly dangerous if juries were to be informed of previous convictions.

There is simply not enough prison spaces left to account for such offenders, and proves that harsher mandatory sentences do not reduce crime rates, but simply impact disproportionately on minority groups. Works Cited Page1.. ( Jacqueline Rose Claire College idebate. org) 2. (famm. org) 3.

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