



States' Rights: How One Law Allowed a Scourge of Racist Death Sentences

By CDPL Staff

The federal government plays a critical role in upholding our nation's promise of equality. The Fourteenth Amendment, which granted due process and equal protection, was passed during Reconstruction to protect newly freed people from racist state laws.

Nearly 100 years later, the federal government again stepped in to protect Black Americans from the continued racism of state courts and legislatures. While Strom Thurmond and George Wallace railed against federal interference with "states' rights," Congress passed the Civil Rights Act of 1964 and the Supreme Court enshrined the victories of the Civil Rights Era, desegregating schools, increasing protections for those accused of crimes, and, in 1972, temporarily abolishing of the death penalty.

Today, however, federal courts offer little protection against racist death sentences handed down in state courts. This is due largely to one law: the [Antiterrorism and Effective Death Penalty Act](#). Like mid-century segregationists, the AEDPA exalts the autonomy of states at the expense of marginalized people. When state courts allow injustice to flourish, the AEDPA prevents federal courts from acting as the backstop they should be.

The AEDPA was passed in 1996 and was emblematic of that decade's backlash to racial progress. It not only stripped federal courts of their power to correct unconstitutional state criminal convictions at the dawn of the era of mass incarceration, but another provision of AEDPA played to rising anti-immigrant sentiment, making it harder for people to claim asylum and thereby increasing deportations and family separations.

Even in death penalty cases, the AEDPA requires federal judges to defer to faulty state decisions rather than correct them. When North Carolina courts refuse to recognize racial discrimination in jury selection, tolerate racist closing arguments by prosecutors, or send defendants to their deaths despite grossly inadequate legal representation, federal courts are not allowed to stop such unconstitutional executions, so long as the constitutional violations were not "unreasonable."

It is AEDPA's mandated deference to state courts that permitted Tilmon Golphin's prosecutor to dismiss a Black juror because he dared to report white jurors talking about how Golphin should be lynched. And it is AEDPA's strict deadlines that have barred any court from considering a juror's admission that "bigotry" led him to sentence Kenneth Rouse to death.

Without effective federal oversight, North Carolina courts have largely declined to address the vestiges of slavery and Jim Crow still running deep through our capital

punishment system. As long as the AEDPA puts “states’ rights” first, the Fourteenth Amendment’s promise of equal protection remains an illusion.