

Post Office Box 36123
Albuquerque, NM 87176
<https://narsol.org>



Post Office Box 25423
Raleigh, NC 27611
888.997.7765

ASSERTION: CHOOSING TO SET APART ANY GROUP OF PEOPLE AND DENY THEM CIVIL, CONSTITUTIONAL, AND HUMAN RIGHTS THREATENS THE RIGHTS OF EVERY PERSON IN OUR NATION.

Executive Summary

There is a legal and societal presumption that treating sex offenders more harshly than other felons protects society. In fact, this punitive and dehumanizing approach negatively impacts the very society that is seeking to protect itself because it is creating a group of people cut off from society, with all of the adverse consequences that entails, resulting, ultimately, in the loss of rights for all.

“In a democracy, the majority of the citizens is capable of exercising the most cruel oppressions upon the minority.”ⁱ

Protecting civil rights is an essential part of the democratic values of the United States. Civil rights are a significant set of rights created to protect an individual from unfair treatment; they are the rights of individuals to receive equal treatment and to be free from unfair treatment or discrimination in many ways, including education, employment, housing, public accommodations, and more.

Discrimination is the prejudicial and/or distinguishing treatment of an individual based on his/her actual or perceived membership in a certain group or category “in a way that is worse than the way people are usually treated.”ⁱⁱ

Discrimination in law enforcement can mean that certain groups are viewed by authorities as “potential criminals” and so are more likely to be arrested and imprisoned. It can also mean that they are more likely to suffer harsher treatment, possibly amounting to torture or other forms of ill-treatment, once in the criminal justice system.ⁱⁱⁱ

In the United States we have a history of genocide against indigenous peoples, indentured servitude, slavery, and disenfranchisement that defined our beginning and still shapes our social and political realities.^{iv}

Sexual crime laws have been, in large part, based on myths and mass hysteria about those whom society views as “monsters.” This group of people has been denied civil and constitutional rights, and these harsh laws are often based on nothing other than irresponsible media coverage implying that all who commit sexual crimes are the same, i.e., a homogenous group of predatory, violent pedophiles and rapists. Former Supreme Court Justice Anthony Kennedy is one example of how these laws are created, based on no substance, but rather on unsubstantiated assertions. Justice Kennedy cited “...a frightening and high risk of recidivism” among sex offenders that he said “...has been estimated to be as high as 80%.” HOWEVER, this assertion is based entirely on an article published in 1986 in

NATIONAL ASSOCIATION FOR RATIONAL SEXUAL OFFENSE LAWS

Fighting to restore dignity & constitutional rights to millions

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Psychology Today—an article written by a counselor, NOT a researcher, and for which no supporting evidence could be provided!

In fact, MOST convicted of a sexual crime are not predatory, violent pedophiles and/or rapists, and they are unlikely to reoffend. In the most comprehensive single study on sex offender reoffense rates to date, the U.S. Department of Justice followed every individual imprisoned for a sexual conviction who was released in almost fifteen states for three years and found the reconviction rate to be just 3.5%! These numbers have been subsequently verified in study after study. Studies in Connecticut, Maine, Alaska, Delaware, Iowa, and South Carolina have all replicated these same findings.^v

Rather, most who commit sexual crime are family members or other people known to the child/victim. However, society has a lurid interest in the fear and drama created by irresponsible and inflammatory reporting, and ambitious legislators and news providers are all too anxious to capitalize on this. Many legislators profit from discriminating against sex offenders as a group because this group has no support and no one would criticize a legislator for creating harsh laws against these “deviants.” It is a “slam dunk” with no downside, and many prosecutors and legislators have furthered their political careers by championing the laws designed to punish. There is no legislation easier to pass than a restriction on a sex offender. As a group, they are despised and are easy targets for “tough on crime” politicians needing to score points with their constituents. The laws are deliberately vague with the purpose of ensnaring as many potential “sex offenders” as possible. This also benefits prosecutors and law enforcement because it increases the scope and power of law enforcement as it expands to oversee the burgeoning population of registrants. In California, for example, only 3% of the state budget went to Corrections in the 1970’s; now it is almost 9% and growing. “In 1970, California imprisoned 125 persons per 100,000. That number now stands at 331. The Corrections budget then was about 3 percent of the General Fund. Now it’s 8.9 percent. In 1965, the California Penal Code had about 234,000 words. Today that number has grown to 1.2 million. The legislature has enacted endless new crime laws...”^{vi}

Many legislators base their legislative proposals on nothing more than false media coverage, and this irresponsible approach has direct and ghastly impacts on the lives and families of those affected by these laws. So, the injustices persist and the registries continue to grow, increasing at alarming rates because registrants are required to be on them for life or for many, many years, and far more registrants are added than are removed.

In fact, there is research that suggests that sex offender registration may actually increase the risk of repeat sexual offenses being committed as a result of the severe costs imposed by being on a public registry. These costs “...include social stigma and limitations on where offenders may find housing and employment, which in turn cause psychological stress and hinder rehabilitation.”^{vii}

Human Rights Watch, in a 2007 report, explained, “...the proliferation of people required to register even though their crimes were not serious makes it harder for law enforcement to determine which sex offenders warrant careful monitoring. Unfettered online access to registry information facilitates—if not encourages—neighbors, employers, colleagues, and others to shun and ostracize former offenders, diminishing the likelihood of their successful reintegration into communities.”^{viii}

Residency restrictions push former offenders away from supervision, treatment, stability and the supportive networks they need to build and maintain successful, law abiding lives.^{ix} In addition to the very real problems of housing and employment faced by registrants and their families the stigma and fear of being on the list prevent sex offenders from forming meaningful ties to a community after conviction. This results in feelings of isolation and

resistance to seeking treatment.

Collateral damage also affects the families of registrants. Many on the registry cannot attend the school events of their children, and as previously mentioned, employment and housing become problematic for offenders and consequently their families. There are also lifetime prohibitions on travel (note: no other convict is subject to this). Very recently a special mark identifying the holder as being on the registry has been added to registrants' passports. Consequently, they are banned from international travel in many countries in addition to having to register whenever traveling to another state. In some states, they must register with campus security (California, for example) if the offender wants to enroll in college; campus security is free to use and publish this information in any way it chooses with no responsibility for the consequences. This has the very real effect of discouraging a registrant from pursuing higher education.

Societies are only as good as the way they treat their citizens. This egregious treatment of registered citizens is predicated on fear, punishment, and discrimination of a class of people who have been labeled as "monsters," when in fact those who have sexual crimes convictions are NOT a homogenous group, and most are not violent and do not pose a risk to society.

Being labeled as a sex offender and consigned to the public registry is a life sentence because of its direct impact on the individual's ability to secure housing, to obtain employment, to enroll in higher education, to feel safe (constant fear of vigilantism), to travel without restriction, to use parks, to celebrate holidays (in many places, sex offenders are prohibited from participating in Halloween, regardless of the nature of their specific charge), of visiting their children's schools, in addition to other punishments based on the whims of states and municipalities.

To survive as humans, we must rely on social support, and when that support is withdrawn, we erode our own capacity for compassion and our own potential to be fully human and humane. When we shun an individual or a group, we diminish ourselves, our spirits, and our humanity. Those who are powerless are routinely shunned. When we practice shunning either individually or through "the law," we rarely call it by name, but rather shift the blame to the target as having brought it on themselves, regardless of their suffering.^x When people feel there is little hope for re-inclusion, or that they have little control over their lives, they may even resort to provocative behavior and even aggression.^{xi}

No other group of people in this country is treated as harshly as those convicted, or even accused, of a sexual crime. They are the "untouchables" of America regardless of the nature of their specific crimes or the risk they pose.

No other group of offenders, including murderers, arsonists, those who commit violent assaults, etc., is subjected to the draconian restrictions of being placed on a public list. No other country (with the exception of North Korea) has a public list, although many countries' law enforcement agencies maintain nonpublic lists.

Not all with sexual crime convictions are the same, but all are treated the same. The effects of the restrictions are public shunning and ostracism, with all of the attendant negative outcomes, including creating a group of people who may pose a greater threat because of their exclusion from their communities. It is literally a self-fulfilling prophecy based on fear and misinformation.

Society is negatively affected in two distinct ways:

- Those who shun are personally diminished, and

- Those who are shunned are made increasingly desperate and excluded, resulting in a lack of reintegration into society, which can make the likelihood of reoffending more likely. Although we have allowed registrants to be “released” from prison, our laws and society have made it impossible for them to live normal lives. They are ostracized and marginalized REGARDLESS of the nature of their crimes or the risk (or lack) they pose to society. Removing support networks, making it harder to get help, limiting what they can do to earn a living, and even limiting their ability to attend religious services makes general recidivism more likely.

And perhaps the most chilling aspect of all is the very real factor of the potential erosion of the rights of all. Once society accepts, as it has accepted for those on the registry, that shunning, discriminating, de-humanizing behavior is appropriate for a certain class of people, what will stop other classes of “undesirables” from being targeted? Who will be safe?

As noted decades ago by Pastor Martin Niemöller when another group of “undesirables” were being targeted for discrimination, shunning, and, ultimately, death: “First they came for the socialists, and I did not speak out—because I was not a socialist. Then they came for the trade unionists, and I did not speak out— because I was not a trade unionist. Then they came for the Jews, and I did not speak out—because I was not a Jew. Then they came for me—and there was no one left to speak for me.”

“The most dangerous creation of any society is the man who has nothing to lose.”^{xii}

ⁱ Edmund Burke <https://brainyquote.com>

ⁱⁱ Discrimination definition, Cambridge Dictionaries online

ⁱⁱⁱ Lawlex.org/lex-bulletin

^{iv} Online—The Sanders Institute

^v The Big Lie About Sex Offenders, Washington Post 3/9/2017

^{vi} 2018 Governor Jerry Brown State of the State Address

^{vii} 2011 University of Chicago Journal of Law and Economics

^{viii} Human Rights Watch 2007 report

^{ix} Online Sex Offender Registries: common Sense or Nonsense? <http://www.criminallegalnews.org>

^x A Reason (and Season) to Stop Shunning; Huffpost 2/19/2012

^{xi} Science Daily “Pain of ostracism can be deep, long-lasting” 6/6/2011 Purdue University

^{xii} James Baldwin