The Ethical Implications of the Racial Justice Act

At the heart of the debate about the Racial Justice Act in North Carolina is the moral issue of implicit racial bias in sentencing and jury selection. The Racial Justice Act seeks to ameliorate these issues by allowing “death row inmates to present evidence, including statistical patterns, suggesting that race played a major role in their being sentenced to death” (Robertson). Although this piece of legislation has good intentions behind it, there are three major ethical issues with the RJA. First, it is a retroactive method to approach issues of implicit bias, instead of a method of preventing implicit biases from affecting future sentences. Second, the RJA only applies to those who have been sentenced to death, which does not focus attention on the effect of racism and biases on other types of court cases. Third and most important, the inmates must prove with statistical evidence that racism affected their sentencing; however, it is not always easy to prove an implicit bias, due to its nature as something unconscious and possibly unrecognized.

Although correcting prior harms is necessary in terms of prejudiced conviction practices, the RJA does not best promote the interests of African-Americans. The moral problem here is that the biases of jurors, lawyers and judges impact the ways in which African Americans are sentenced for their crimes in North Carolina. Efforts should be concerted on creating ways in which these biases can be prevented in a court of law, not delayed until individuals are convicted and allowing them to appeal thereafter.

Additionally, this act only focuses on the interests of death row inmates and neglects the needs of other convicted men and women who feel as though racial biases impacted their conviction and/or sentencing. According to the New York Times, many feel as though the RJA is primarily concerned with ending the death penalty, rather than correcting implicit biases. The article quotes Tom Keith, a former district attorney, as stating “This is not about racial justice….The real purpose is to end the death penalty, to make it so complicated and so expensive that they win by attrition” (Robertson). Keith alludes to a different motive underpinning the RJA, and although it may not be entirely true, he draws attention to the fact that the RJA may not in fact be promoting racial justice and correcting moral wrongs for all African-Americans.

The most morally problematic issue that I have with the RJA is the fact that it relies heavily on statistical evidence to prove that racial prejudices and biases influenced sentencing for convicts. It is incredibly difficult to prove implicit biases because those who have them may be unaware, and these types of biases do not present themselves outright. People may not believe that they are biased, but these prejudices come out in actions, such as in convicting and sentencing criminals. In this case, how do we measure these biases? Is it even possible to measure them? Should IATs be used in juror selection in order to prevent biases from influencing jurors in court? What steps need to be taken in order to ensure that all individuals are treated equally in a court of law? The RJA tries to create a path to justice for those serving sentences on death row, but it does not address the most important moral problems associated with the larger issue of implicit biases in the justice system.