

The Other Death Penalty * *Kenneth E. Hartman*

More than 29 years ago I killed Thomas F. in a drunken, drugged-up fistfight. I was sentenced to death. Not the more controversial death penalty, the one with high-powered lawyers and celebrities willing to stand in the fog outside San Quentin State Prison in all-night vigils of protest. No, I was sentenced to the quieter and ‘less troublesome’ death penalty, the one too many of those well-meaning activists bandy about as the sensible alternative to state-sanctioned execution: life without the possibility of parole.

Though I will never be strapped down onto a gurney and have life-stopping drugs pumped into my veins, be assured that I began the slow process of my execution some time ago – an execution in the form of a long and deliberate stoning that goes on for as long as I draw breath. My connections to the free world will be shattered as the daily humiliations of prison life beat me down. The endless rounds of riots, stabbings and lockdowns, the punitive searches and petty losses that characterize the life of a prisoner will, ultimately, batter me to death. Because I entered the prison system a couple of months after my 19th birthday, the stoning won’t come to full effect for 50, maybe 60 years. I have often wondered if that 15 or 20 minutes of terror believed by many to be ‘cruel and unusual’ would not be a better option.

There is more to it than the mere physical act of imprisonment, much more. The 3,864 life without parole prisoners in California enter an unforgiving and bleak existence (CDCR, 2009). We are condemned to serve out our lives in the worst maximum-security prisons, which are specifically designed to be punitive. This means that rehabilitative- and restorative-type programs, the kinds of programs that can bring healing and meaning to a prisoner’s life, are generally not available to us. The thinking goes that since we will never get out of prison there is little point in expending scarce resources on dead men walking.

Similarly, the prison reform community, with a few shining exceptions, cannot seem to run far enough away from us. On the one hand, there are the dedicated anti-death penalty advocates – who all too often advocate for this excruciating and grinding death penalty, and unwittingly legitimize the sentence – and on the other hand, those who are mostly concerned with re-entry programs. Needless to say, we do not fit into either category. Contrary to myth and legend, no one serving a sentence of life without parole in California has *ever* been released (Sundby, 2005, p. 38).

What this means is dissipation – a gradual disappearance into the ever-expanding concrete and razor-wire Empire of California’s prison system. Family and friends run out of patience, out of hope and out of our lives. It is understandable, though no less painful to experience. Imagine a close relative diagnosed with a terminal illness forced to stay at the hospital. Now imagine they hang on for years. They grow old and removed, and maybe a little bitter. Plus, this hospital is surrounded by lethal, electrified fences, and the windows are barred so tightly the light has to sneak in lest it be smothered by the shadows. At some point even the most kind-hearted, the most dedicated family members and friends will desire to be pardoned, paroled from being forced to touch this darkness.

I am a lot older now, and I am far removed from the reality of the free world. Truthfully, though I accept full responsibility for my predicament, and feel a crushing sense of remorse and guilt, I can barely remember the details of that terrible night all those years ago. Years that have moved on, stained by tears dried up in the hot wasteland of a life misspent. My own family abandoned me early on, perhaps sensing the torment that lay ahead. Both of my parents have passed and with them my hope for reconciliation. I have watched the world change so radically as to be unrecognizable. I have also watched, and suffered, as the prison system turned the screws on life without parole prisoners, gradually and inexorably squeezing us into a corner – not simply denying us release, but annihilating possibility itself.

Natan Sharansky (1988), himself a former prisoner, once observed that as hard as it is for man to come to terms with meaninglessness and infinity, it is impossible to adjust to infinite meaninglessness. I can think of no better way to describe the intent of a life without parole sentence. It is an exile from meaning and purpose, and from hope. Inevitably, as the years roll by, bitterness begins to overtake even the strongest of men, fuelled by this banishing from all that is human. I fight the bitterness with all my might, faith, and love. But without hope, even these mighty forces seem inadequate to the task.

I agree that state-sanctioned execution is morally repugnant. I do not agree that a life devoid of any possibility of restoration is a reasonable or humane alternative. It simply is not. A death penalty by any other name is as cruel, as violent and as wrong. While some prisoners may not be able to earn their way back into the graces of society, none should be wholly denied the chance. At the very core of our culture resides the concept of restoration, like a harbour light to the lost – extinguishing this light for anyone darkens

everyone's journey. It diminishes all of us and blesses the basest of human instincts.

All forms of the death penalty need to be discarded in a truly just society.

ENDNOTES

- * Editors' note: A version of this article was originally published on <http://theotherdeathpenalty.org> as the founding document of *The Other Death Penalty Project*, which began in 2008.
- ¹ According to The Sentencing Project there were 33,633 life without parole prisoners nationwide in 2002-03, the last year good figures were available. This number has surely increased. Of the national total, according to the Equal Justice Initiative (2007), 2,225 were sentenced for crimes committed as juveniles, and 73 of these were sentenced for crimes committed at the ages of 13 or 14. According to Human Rights Watch (2008), as of February 2008, in the rest of the world, not a single prisoner was serving life without parole for a crime committed as a juvenile. For more information see (Mauer *et al.*, 2004).

REFERENCES

- California Department of Corrections and Rehabilitation (CDCR) (2009) "Fourth Quarter 2008 Facts and Figures" – May 26, retrieved from www.cdcr.ca.gov.
- Equal Justice Initiative (2007) *Cruel and Unusual: Sentencing 13- and 14-Year-Old Children to Die in Prison* – November, retrieved from <http://www.eji.org/eji/files/20071017cruelandunusual.pdf>.
- Human Rights Watch (2008) *US: Human Rights Watch urges Michigan to End Life Without Parole for Juveniles: Letter to Michigan's Senate Judiciary Committee* – December 9, retrieved from <http://www.hrw.org/en/news/2008/12/09/us-human-rights-watch-urges-michigan-end-life-without-parole-juveniles>.
- Mauer, Marc, Ryan S. King and Malcolm C. Young (2004) "The Meaning of Life: Long Prison Sentences in Context", *The Sentencing Project* – May, retrieved from http://www.sentencingproject.org/doc/publications/inc_meaningoflife.pdf.
- Sharansky, Natan (1988) *Fear no Evil*, New York: Public Affairs.
- Sundby, Scott E. (2005) *A Life and Death Decision: A Jury Weighs the Death Penalty*, New York: Palgrave MacMillan.

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