

# A Fate Worse Than Death

Jason Lydon

In order for us to begin I want everyone to get into somewhat of an uncomfortable place. I want you to take a moment to close your eyes. Visualize a moment in your life when you have felt hopeless. Visualize a moment when you have felt that your life was devalued and you had little or no control over the outcomes. Feel in your body, remember in your mind, what was it like to exist in this hopelessness? What did this hopelessness do to you? How did it impact your behavior, your interactions with others, your relationship to yourself?

We all get moments of this hopelessness and struggling through it can be exhausting. The sentence of Life Without Possibility of Parole is not simply a moment of that hopelessness, it transforms life into hopelessness. The sentence itself is a declaration that the individual convicted of something so heinous can never experience any kind of transformation, no communal redemption, but rather is a manifestation of evil that must be confined away behind bars, behind concrete, behind barbed wire for the rest of that person's life. Life Without Possibility of Hope. Life Without Possibility of actually living life.

Many understand the Death Penalty as an immoral, unjust, and even economically unsound sentence to hand down to an individual. However, the immorality does not simply stop at the state-sanctioned murder of an individual. The sentence of Life Without Possibility of Parole is indeed just another form of death. "*The Other Death Penalty Project*", an organizing effort comprised entirely of individuals currently serving Life Without possibility of Parole across the country, asserts that, not only is this a sentence of death, it is able to exist as such without any kind of "legal or administrative safeguards" to protect those who have been sentenced, a practice that is automatic for those sentenced to die by needle, electric chair, or gas as opposed to death by old age and disease in a concrete box.<sup>i</sup>

Kenneth Hartman, who wrote the founding document of *The Other Death Penalty Project*, relates to that hopelessness we felt earlier. He reflected on the words of, Anatoly Shcharansky, himself a former prisoner,"that as hard as it is for man to come to terms with meaninglessness and infinity, it is impossible to adjust to infinite meaninglessness." He goes on to write, "I can think of no better definition for the intent of the life without parole sentence. It is an exile from meaning and purpose, from hope. And as the years roll by, inevitably, bitterness begins to overtake even the strongest of men, fueled by this banishing from all that is most human. I fight the bitterness with all my might, all my faith and love, but without hope even these mighty forces seem inadequate to the task."<sup>iii</sup> When we say that Life in Prison Without Parole is unjust, is the taking of a life, we say so not because of some theoretical reflection but because of the lived experience of people who are living with the eternal consequences of their lives and the injustice system.

I want to take just a moment to remind us that the authentic reality of guilt is hardly relevant to our current injustice system. Our criminal injustice system is about those with access to financial resources, those with access to white privilege, those with access to people in power get to, for the most part, go free while those who are most marginalized are railroaded through the system. As I continue the rest of my talk I am going to frame it around those who actually have caused great harm by unjustly taking another person's life. Our criminal injustice system is rooted in the practices of white supremacy and economic colonialism and that should be reason enough for us to get rid of Life in Prison Without Parole, but unfortunately that argument is not working for most of us. So I want to continue talking about this other death sentence, but do so while thinking of those who have actually caused harm –

including those who never get caught.

The Norfolk Prison Lifers Group wrote an incredible report last year, “Life Without Parole: A Reconsideration.” While I do not agree with the assertion in their paper that it is appropriate to lock people up for even 25 years, I do think their reflections are incredibly important when reflecting on the practice of sentencing people to die behind prison walls. They write, “When a person is sentenced to LWOP, the decision has been made that the person is no longer fit to remain in society and that exclusion must continue no matter how much the person may change. LWOP ignores the obvious fact that over time some prisoners no longer pose a threat to harm others. They can be released on parole without endangering public safety and can constructively contribute to the welfare of the entire community. Merely warehousing human beings until they die is not a solution to criminal justice issues: not socially, not morally, not criminologically and certainly not fiscally.”<sup>iii</sup>

In Massachusetts the sentence of Life Without Parole is reserved for those cases in which the individual has been convicted of First Degree Murder. It is important to note, as was done so in the paper put out by the Norfolk Lifers Group, that the number of individuals serving Life in Prison Without Parole has grown 5 times between 1977 and 2009, yet the rate of murder has actually gone down.<sup>iv</sup> In 1977 there were 170 people serving Life Without Parole and in 2009 there were 938 people serving in Massachusetts prisons.<sup>v</sup> This growth is part of the ongoing Mass Incarceration practice roaring through the United States that is tearing apart communities of color and low-income communities.

Many have claimed that Life Without Parole is a necessity for getting rid of the Death Penalty in states across the country. The Massachusetts Coalition Against the Death Penalty president has suggested that we could make it so that Massachusetts was more of a model than feeling, “weird.” However, given that Massachusetts ranks fourth in the country for percentage of individuals under some form of state control, prison, probation or parole, I am not so sure this model is something we want to lift up and highlight for the rest of the country. One of the points I think most importantly articulated in the report by the Lifers group asserts that, “Twenty years of experience with life-without-parole statutes shows that although they have only a small effect on reducing executions, they have doubled and tripled the length of sentences for offenders who never would have been sentenced to death or even been eligible for the death penalty.”<sup>vi</sup> They go on further to quote Marie Gottschalk writing that, “In promoting LWOP, [death penalty] abolitionists risk legitimizing a sanction that, like the death penalty, is sharply divergent with human rights and sentencing norms in other Western countries. The emphasis on LWOP as an alternative to the death penalty appears to be legitimating the greater use of this sanction for non-capital cases.”<sup>vii</sup> For us, we must recognize that the existence of this sentence, of saying that an individual may never return to society, is simply part of the ongoing warehousing of individuals, forcing bodies the government does not like into little concrete cages.

We need to be prepared to respond to the current societal expectations and norms around incarceration, specifically when thinking about Life Without Parole. Those who get sentenced to this are, most usually, those who have harmed people in a way that we find it next to impossible to figure out what transformative or restorative justice could look like. However, we must examine the stories, the cultural myths, we have been told over and over again about our society.

Palak Shah, an abolitionist organizer and editor of *Defending Justice*, identifies four particularly damaging myths used widely within the United States to contribute to the growth of the prison industrial complex. The idea that, “we are all rugged individualists” is the first myth Shah identifies. This is the concept that we can all “make it” or “pull ourselves up by our bootstraps” if we simply try hard enough. “Rugged individualism,” she says, “asserts that the strong rise and the weak fall. This

idea values individual liberty over any collective or community obligation...This is sometimes called a masculinist world view, placing a higher value on common ideas about men and maleness than on women; it contributes to a climate where sexism is acceptable."<sup>viii</sup> This "rugged individualism" depends upon a myth that those who are suffering get what they deserve and that those who are succeeding are inherently better. This ideology parallels the Calvinist theology of determinism and predestination.

The second myth Shah highlights is that all people who are in prison must have done something wrong. "This myth is based on the idea that human actions are governed primarily by personal responsibility... People who act responsibly stay out of trouble... Prisoners are people who acted irresponsibly and must suffer the consequences."<sup>ix</sup> This myth ignores the social construction of poverty, white supremacy, homelessness, and other structural violence that leads to survival "crime." This myth refuses to acknowledge what actually goes on behind prison walls. This myth refuses to look at the healthcare access prisoners receive. This is the myth that allows sexual violence in prison to be seen as a joke and simply part of the punishment for acting "irresponsibly." Because of how I approach the anti-prison movement, I am curious about what this says theologically and the theological norm established with this myth is that humanity is, "born sinful and must exercise self discipline to reach heaven. If they refuse to behave properly, then punishment is not only appropriate, it is for their own good, to help them be redeemed in the eyes of God."<sup>x</sup> The prison industrial complex then becomes its own manifestation of God, playing the role of ultimate punisher and disciplinarian for human transgression. One of the most brutal tools of the prison industrial complex is the death penalty. This action of God-playing by the state displays its power to decide who deserves to live and die, disciplining not only the executed individual but an entire culture that is forced to know the state can play God in anyone's life.

The third myth relates to the judicial system itself. Shah suggests, "Americans believe, and want to believe, that the U.S. justice system treats everyone fairly despite clear evidence that this is not the case."<sup>xi</sup> Personally, I think what would seem more accurate is that those who have not been most impacted by the judicial system believe and want to believe in the fairness of the system. It is simply another misleading white, ruling class story that pervades our dominant culture. There is an assumption that a "jury of your peers" will look at evidence with an unbiased eye. There is an assumption that the racist systems every person internalizes will not play out when making a judgement about a situation. Yet how many times are the words of a police officer taken with more validity than the words of a sex-worker? How many times have prosecutors relied on the racism of a jury to get a conviction? In February of 2010 Dr. Aafia Siddiqui was convicted of attempted murder on U.S. interrogators in 2008 even though there was no material evidence supporting the accounts of the prosecution. The language of terrorism and "crazy Arab woman" were tossed around the court room, playing on the fear of the jury.

The final myth Shah highlights is that the American people are taught to believe that the criminal justice system keeps communities safe. This understanding is, "rooted in the false assumption that prisons work to create safety and reduce 'crime...'" Central to the notion that the system is working is the belief that the U.S. criminal justice system protects the innocent and provides for their security."<sup>xii</sup> Would the families and communities of Sean Bell, Oscar Grant, Tarika Wilson, Duanna Johnson, and so many others who have lost their loved ones to murder by police agree that the criminal justice system keeps *their* communities safe? When the police arrest the survivor in a domestic violence situation because the couple is same-gender or the survivor is defending him/herself are they being protected by the criminal justice system? Those who have been taught that the police are around to protect them must examine how that message was taught and why they feel safe with the presence of the police.

Dr. Suzanne Joseph, whose work was explored in detail a few years ago here by Vivianne Saleh-Hanna when she spoke about the history of incarceration, has discussed the cognitive dissonance involved in the establishment of feelings of safety by distinguishing the cultural acceptance of the, "inevitability of Black death and the superiority of white life"<sup>xiii</sup> Dr. Joseph looks specifically at the colonization of Palestine and the condemnation of Palestinian resistance in contrast to the legitimization of Israeli military occupation and murder of Palestinian lives. Joseph's analysis of Zionism and the colonization of Palestine is useful when deconstructing the cultural norms of the prison industrial complex as Palestine has often been called "the largest open air prison on earth." This analysis can be applied to the ways the media considers the lives of the Black, Latino, and Arab individuals killed by the police, providing protection for white people or white owned property. This analysis can also be applied to the torture and violence used against detainees in Guantanamo Bay or other U.S. military prisons around the world in the name of protecting the United States citizens, or more aptly, the ruling class and white power structures. We must look at how Dr. Joseph's analysis is operating in the development of the prison industrial complex and particularly in the sentencing of people to Life Without Parole. How many white cops who shoot Black men are sitting in Norfolk for taking the lives of Black people? The answer is simple, none. Let us also recognize the racial disparities inherent in the sentencing of people to life without parole. According to Human Rights Watch, "On average across the country, Black youth are serving life without parole at a per capita rate that is 10 times that of white youth."<sup>xiv</sup> These racial disparities are worse in some states, "in Connecticut, Pennsylvania and California, Black youth are between 18 and 48 times more likely to be serving sentences of life without parole than white youth."<sup>xv</sup>

While an immediate elimination of Life Without Parole, and more largely the abolition of the prison industrial complex may not feel realistic, a good practice is to explore strategies that will lead to the end goal as well as examine alternatives to relying on the penal system, police, or punishment ideology. James Samuel Logan wrote *Good Punishment* as a Christian theological exploration of the prison industrial complex and to offer reflections on the possibility of living differently. Logan is an abolitionist and specifically sympathetic to Angela Davis' suggestions of abolitionism. He relates to Davis as she, "insists that society not search for prison like substitutes for the prison, 'such as house arrest safeguarded by electronic bracelets.' Rather, she invites us to imagine a constellational continuum of alternatives to imprisonment: e.g., the 'demilitarization of education on all levels... a justice system based on reparation and reconciliation rather than on retribution and vengeance."<sup>xvi</sup> Logan suggests that humanity has the capacity of creating these new systems even as it takes a radical change in how the culture is structured at the current time.

To get beyond the humiliation and violence of the prison industrial complex Logan offers, "an 'ontology of love,' which essentially drives humanity toward 'the reunion of the separated.'"<sup>xvii</sup> This reunion involves all of the people of society. When an individual causes harm to another there is a need of return to the grace of humanity for all involved. Society as a whole has a particular role in this process along with the individuals directly involved in a particular situation. Society is, "in need of forgiveness of having created and permitted crime-generative communities to exist."<sup>xviii</sup> This permission manifests itself as a refusal to provide universal healthcare, criminalizing mental illness, evicting people from their homes, sending people off to war, and so many other violent socializing processes. The particular individuals involved also have roles to play in the process of justice. Relating to Howard Zehr's theories of restorative justice Logan defines restorative justice as system that is, "community-based and deals with offenders through a victim-oriented process of restoration in the form of restitution... Restitution recognizes the basic need of victims for vindication without making the pain and humiliation of punishment the final word."<sup>xix</sup>

Many people question how forgiveness or restitution can happen after a violent act or harm has been caused, a doubt that is well-founded in a culture that puts so much value on vengeance and punishment. However, very importantly restorative justice, "does not aim to encourage or coerce victims of crime to forgive or reconcile with offenders, though the process 'does provide a context where either or both might happen.'"<sup>xx</sup> Justice can occur without a particular survivor choosing to forgive the person/people who caused harm in the first place. Restitution can be configured in whatever way is needed. Forgiveness can be left to the Divine, allowing the survivor of harm to move on. However, forgiveness can be a saving experience for the survivor(s). This forgiveness is not a "forgive and forget" fiction created for the illusion of justice. In order to establish the purpose and benefit of forgiveness in any given situation an understanding of forgiveness as part of establishing "healing memories" can be helpful. Logan relies heavily on the ethics of Stanley Hauerwas in his writing, both supporting and critiquing him. For Hauerwas, "Christian forgiveness is not that our sins no longer matter but that our sins are now made part of the economy of salvation for the constitution of a new community otherwise impossible.' It is crucial for Hauerwas that the gift of our forgiveness, of transformed but not forgotten memories of offense, be received in the context of gathered community."<sup>xxi</sup> Forgiveness for a survivor may look like a recognition of the harm caused, a remembering of the pain, and a willingness to understand that the person who caused the harm is human, even if that humanness is broken.

This forgiveness absolutely does not need to be relegated to Christianity or the religious realm. Those of us who are humanists and those in the secular world have plenty of models to turn to that give us the tools we need to say no to the warehousing of people for the rest of their lives. There are examples of communities and organizations turning away from the prison industrial complex and addressing harm in ways that feel transformative for them. "Over the past several years Communities Against Rape and Abuse (CARA) in Seattle has actively supported people and networks in developing community accountability strategies. In one situation, CARA supported a group of young women organizers who had been sexually assaulted by a male co-organizer. Because of the women's demands, the group removed him from his position and he entered counseling with support from friends. The group also began sponsoring trainings on sexual violence throughout its national chapters."<sup>xxii</sup> In this example the survivors were able to come together and get the support that they needed from an outside organization. They also were able to claim their space within their own community by making demands that the abuser be held accountable. The abuser then agreed to take his own necessary steps to heal his brokenness by entering into counseling. The organization as a whole also took its responsibility by agreeing to trainings that would hopefully lead to an organizational culture that challenges all forms of violence. These steps help create a safer environment and let go of the continual reliance on the prison industrial complex to solve their problems.

Another example, right here in Boston, is the Louis D. Brown Peace Institute. The work they do to bring families who have lost a loved one to homicide as well as families who have lost a loved one to the prison system for taking a life, is work that is honored all around the country. While they may not be directly working to put an end to the incarceration system, They are modeling a practice that shows us that we can engage with each other without relying on the violence of the current criminal injustice system to do the work for us.

Life Without Parole is a violent alternative to the death penalty. We have a responsibility to work with those organizing to put an end to this practice. While we are working to rid ourselves of the practice of incarcerating people at all we would do well to partner with the Norfolk Lifers Group who are fighting for what I would call abolitionist reforms, practices that are helping us get closer to the elimination of the current system. They are fighting to get all people access to parole and that is an essential change that we can fight for. However we cannot fight for that with blinders on. Our parole system is broken.

If someone as incredible and reconciled to the reality of the harm he caused as Arnie King, cannot get his sentence commuted, where can our hope in the parole board be? At all times our organizing work must be multi-faceted, because the injustice system is multi-faceted. We need to be cautious when claiming victories. Our work is cut out for us, but we have people to work with. The Norfolk Lifers Group, the Other Death Penalty Project, and others around the country are all struggling to create the world that we dream of. As we expand our prison ministry here at the Community Church of Boston and as we strengthen our organizing and advocacy work here, we will be able to lift up the voices of currently incarcerated people along with their loved ones. We do have the power to do this, the next step is to build our will to do it. I believe we can.

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- i The Other Death Penalty Project, Internet, <http://theotherdeathpenalty.org/foundingdocument.htm> accessed June 10, 2011
  - ii Ibid.
  - iii Gordan Haas and Lloyd Fillion, *Life Without Parole: A Reconsideration* Norfolk Lifers Group and the Criminal Justice Policy Coalition, 2010
  - iv Ibid.
  - v Ibid.
  - vi Ibid.
  - vii Ibid.
  - viii Palak Shah, *Defending Justice*, (Political Research Associates: Cambridge), 36.
  - ix Ibid. 37
  - x Ibid.
  - xi Ibid.
  - xii Ibid. 38
  - xiii Suzanne Joseph "Palestine Solidarity and the Prison Industrial Complex," Critical Resistance Conference in Oakland, California September 27, 2008.
  - xiv Campaign for Fair Sentenceing, Internet, <http://www.endjwop.org/the-issue/advocacy-resource-bank/racial-inequality-in-youth-sentencing/racial-inequality-by-state/> accessed June 10, 2011
  - xv Ibid.
  - xvi Logan, *Good Punishment*, 236.
  - xvii Ibid. 203
  - xviii Ibid. 207
  - xix Ibid. 229 - 230
  - xx Ibid. 231
  - xxi Ibid. 162
  - xxii Communities United Against Violence (unpublished, copied and distributed by organizations), "The Revolution Starts at Home," 60.