

By Luis J. Rodríguez

Illustration by Christopher Serra

# Don't Throw Away the Key

## *Why Life Without Parole Is Cruel and Unusual*

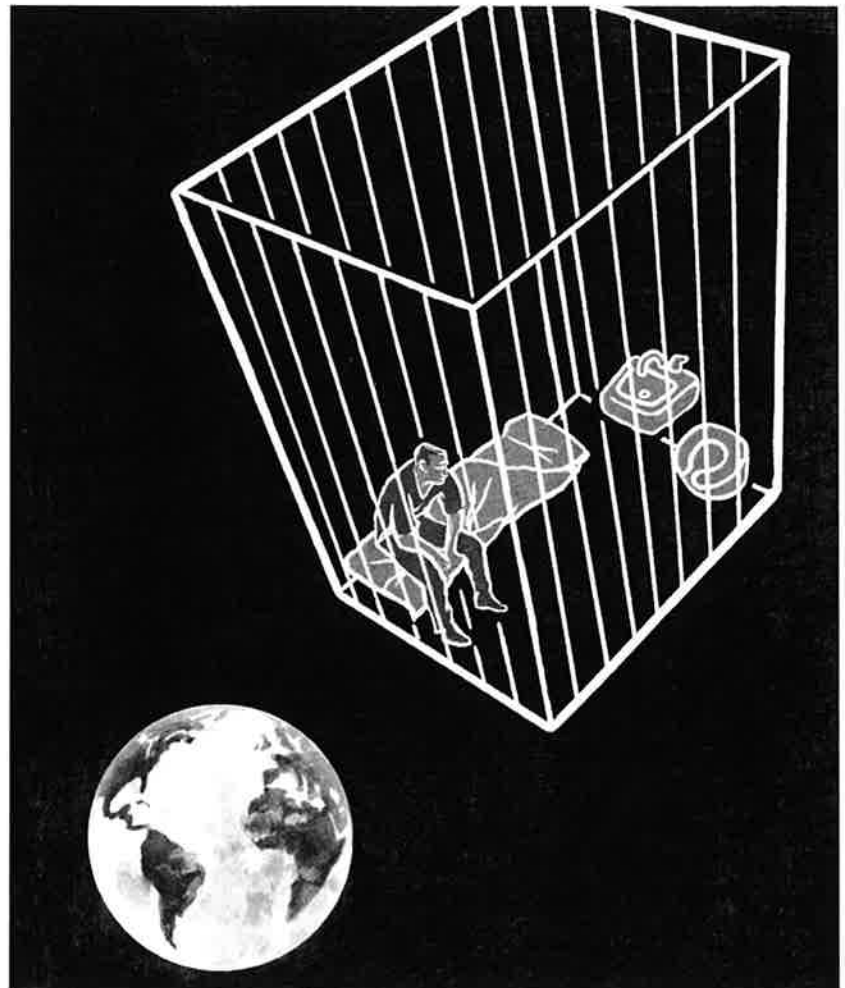
**M**ANY BELIEVE THAT THE DEATH penalty is the worst of a judicial system, but there is a fate worse than death. It's known as the other death penalty—life without the possibility of parole. How can life be worse than death? Imagine living a life without a point, a reason, or a direction, breathing but never living. . . . It is my testimony that being sentenced to life without the possibility of parole is even more cruel and unusual than the death penalty.

These words were in an essay written by a prisoner in Connecticut who participated in a writing contest sponsored by "The Other Death Penalty Project." This project invited prisoners and non-prisoners alike to address ending life without the possibility of parole, a sentence meted out to people who commit murders and other violent acts. It's a sentence often given in lieu of the death penalty, sometimes even to juveniles tried as adults.

This spring, I was the final judge for this contest. I read essays, poems, and fiction pieces by finalists, including prisoners incarcerated in California, Con-

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Luis J. Rodríguez's latest book is *"It Calls You Back: An Odyssey Through Love, Addiction, Revolutions, and Healing,"* by Touchstone Books/Simon & Schuster. A forthcoming book on life without the possibility of parole, *"Too Cruel, Not Unusual Enough,"* edited by Kenneth E. Hartman, will be published by the Other Death Penalty Project.



necticut, Florida, Illinois, Kansas, Missouri, Nevada, and Tennessee.

What I read while judging the contest proved to be moving and insightful. The thoughts expressed in these works challenge the thinking of most anti-death penalty advocates, who for years have pushed life without the possibility of parole as the alternative to executions.

I was asked to participate by fellow writer Kenneth E. Hartman, whose book about being raised by the California foster care, juvenile, and correctional systems is a must-read (*Mother California: A Story of Redemption Behind Bars*). Hartman has been in prison since 1980, when he was sentenced to life without the possibility of parole for the murder of a homeless man he beat to death as a teenager. I met Hartman last year when I spent ten Sundays, for eight hours a day, facilitating a writing program at a maximum-security unit of the California State Prison in Lancaster.

"I am a lot older, to be sure, and I am so far removed from the reality of the free world," Hartman wrote in a 2009 issue of *Journal of Prisoners on Prison*. "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 mispent. 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 of 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."

As Hartman and others have written, there is only one way to leave prison when one is sentenced either to life without the possibility of parole or

to the death penalty: in a coffin.

I talked to one anti-death penalty person—a writer and former prisoner—who argued that the first step in stopping state-sponsored executions is life without the possibility of parole. He felt that without this, ending the death penalty would be a harder hill to climb.

"This was always a strategy, not a principle," he said.

But with more and more convicts getting life without the possibility of parole in the United States—life without parole sentences have more than tripled since 1992—it's time to revisit this strategy.

Look at how many people are living out their lives under this sentence. In California, the number is now close to 3,700; in Louisiana, it's 4,200; Pennsylvania, 4,500; and Florida, 6,500.

You can see how life without the possibility of parole can appear to be the right tool in ending the death penalty. Public fears—fomented by politicians and the media, of convicted murderers being let out early—may not allow another answer for a long time to come. But we must still hear these voices:

*I do not want to end like this; I do not want to die in here; I do not want to die alone.*

A California prisoner's lament.

As I was writing this, prisoners in a third of the state's correctional facilities were refusing state-issued meals in solidarity with maximum-security inmates at Pelican Bay, home to one of California's most notorious security housing units, supposedly containing the "worst of the worst." Some of these prisoners were in for life.

The Pelican Bay hunger strike began on July 1 when prisoners refused meals "in protest of conditions that they contend are cruel and inhumane," according to Sam Quinones of the *Los Angeles Times*.

**L**ike many anti-death penalty adherents, I once thought that life without the possibility of parole

*was a good alternative to the death penalty. . . . All too many of those working to end the death penalty share the misconceptions and faulty reasoning I once used. They are in support of an abstract idea, not the people who suffer the ideas of others. . . . If you lock up a sizable number of young men for life, someday you are going to have a whole lot of middle-aged and older men who are no longer a threat to anyone, and it's going to cost a fortune to continue incarceration until death. And we will have cheated ourselves out of the potential contributions of all those who could well have been released after a fair sentence.*

Here non-prisoner and contest writer Joan Leslie Taylor posed an interesting proposition: that violent felons, including murderers, can still make positive and meaningful contributions to society. What if rehabilitation and recovery and post-release support could be part and parcel of any sentencing? What if communities welcome back those who have wronged us by establishing an environment where they won't hurt others or themselves, but instead, through a properly initiated and renewed life, can help give back and enhance community?

The United States already has 25 percent of the world's prison population, although we are only 5 percent of the world's population. In the past three decades, an estimated \$60 billion a year has been spent to keep people behind bars for longer and longer periods of time, with little-to-no resources to help prisoners come out balanced, healthy, and crime free.

**T**here always has been crime; there always will be crime. It is a part of some people as breathing is, and even any form of death penalty will not deter them. Read your Bible—Jesus was crucified with two thieves. We still have thieves today. The Romans left crucified bodies hanging, as a warning of Roman strength, power, and the law. Today we use our jam-packed to overflowing prisons and life without the possibility of parole the same way. It didn't

*work then, and it doesn't work today. Our elected leaders need to realize that crime is inherent to society, and that there should be punishment, but not such punishment that it makes punishment useless. Life without the possibility of parole has become useless punishment.*

These were the insights of a Kansas prisoner. Punishment with no aim of healing for the person and the community only makes things untenable for everyone.

"Truth be told, there is no scientific foundation to America's sentencing patterns," wrote Dortell Williams, a California prisoner who took first place in the writing contest. "In reality, it isn't necessarily how much time an offender does, but the quality of his incarceration that can determine if he is redeemable or not. This fact is frequently lost in the fog of demagoguery that competes to see who can be tougher on crime in lieu of being smarter, wasting valuable prison space and scarce financial resources."

We need to ask ourselves: What kind of society might accept change, redemption, and restoration among its most violent citizens?

Williams in his essay made the case that life without the possibility of parole is unheard of in many other countries that do not allow sentences to exceed thirty years. Williams also cited an address earlier this year by Supreme Court Justice Anthony M. Kennedy who claimed U.S. sentences in general are eight times longer than in European courts.

"It's true that a death sentence is unique in its severity and irrevocability, yet life without the possibility of parole sentences share some common characteristics with death that are shared by no other sentence," Williams quoted Kennedy. Life without the possibility of parole "deprives the convict of the most basic liberties without giving hope."

**W**e live without the possibility of parole women are no more incorrigible than those serving a fraction of our time. In fact,

*the prison depends on old lifers to guide and calm the rest. We are the stable, nonviolent mothers in camp—women who have been heaved into the landfill of incarceration to rot, not worth the time or trouble to recycle.*

*Society judges women with a hard eye. If a judge or jury decides we are beyond redemption, there is no reason to look back. So here I exist at sixty, grandmother of ten, still struggling to get the truth out, that the sentence of life without the possibility of parole is a cruel and unnecessary punishment.*

A female convict in Missouri

### Can we envision a seed of good?

wrote this. Life without the possibility of parole has struck male and female, the young and the old, the guilty and innocent, the reformed and the ones still too young to feel the weight of what they've done. It's the same answer given to a myriad of problems, an answer that cares nothing for root causes or unfair trials or the possibility of rehabilitation. It's an answer that says only: "It doesn't matter what's possible with them; it's what they've already done that must forever seal their fate."

Unfortunately, many of those being thrown away are young—there are 2,500 juvenile offenders serving life without parole sentences in the United States. There are none in the rest of the world. More than half of those juveniles are African Americans. In fact, African American youths are ten times more likely to be sentenced to life without parole than white youths.

The disparities and irrationalities make life without parole sentences contemptible, which is why the United Nations Convention on the Rights of the Child expressly prohibits such sentences for youths. Only two countries have refused to ratify this document—Somalia and the United States.

**T**here is another way of seeing. Human beings are a cauldron of possibilities, abundant with creativity, hope, transformative energies, and transcendence. Most people won't have to confront their worse selves, their worst moments of rage or addiction or depravity. But when someone does, can we envision a seed of good, of positive, in all that bad? The Earth regenerates itself after natural disasters—it's a law of nature. Even dogs and horses that have been abused can be brought back to health and reconnection. And humans have qualities of intelligence and inventiveness that most animals don't possess.

We need to align with nature's tendency to be bountiful, beautiful, and revitalizing despite some ugly and terrible acts, inactions, decisions, and indecisions.

**W**hen you're serving life without the possibility of parole, it's as if you're experiencing the broken heart of knowing you'll never love or be loved again in any normal sense of the word, while simultaneously mourning the death of the man you could have been and should have been. The difference is that you never recover, and can move on from neither the heartbreak nor the death because the pain is renewed each morning you wake up to realize that you're still here, sentenced to life without the possibility of parole.

*It's a fresh day of utter despair, lived over and over for an entire lifetime.*

These were the words of an inmate in a "supermax" prison in Illinois. As a society, we're good at coming up with ways to discard people, to stop their growth, to push them—and perhaps our own unreconciled depths of pains, sorrows, and rages—behind fences, borders, or razor wire. The price for this, I submit, is more crime, more fear, more of the same, costing us billions without remedy. This is a powerful enough reason to stop life without the possibility of parole for anyone. ♦