

Evaluating the Effectiveness of Life Without Parole as an Alternative to the Death Penalty

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ABSTRACT

Death penalty in the United States has been steadily replaced by life without the possibility of parole (LWOP) sentences since 2001. As of July 2021, the number of people on death row imprisoned in state, federal, or military prisons was down to a thirty-year low, which translated to a 33% decrease since its peak in July 2001. On the other hand, the number of people serving LWOP increased by 66% since 2003. This paper reviews current academic literature to compare the pros and cons of LWOP and death penalty from financial and psychological points of view in response to the question of whether LWOP is a more effective alternative to the death penalty in the United States. From a total cost perspective, LWOP is less costly to execute than that of a death sentence. Psychologically speaking, LWOP may be more satisfactory for both families of the victims and defendants. However, while LWOP has been regarded by many as more humane, its effectiveness has been degraded by harsh policies in the 1980s and 1990, which have resulted in prison overcrowding and the United States having the highest prison incarceration rate in the world. In addition, diminishing rights is a common issue experienced by LWOP prisoners. Therefore, the author concludes that while LWOP has strengths over the death penalty, its ultimate effectiveness remains in question.

Introduction

Death penalties are steadily being replaced by life without the possibility of parole sentences (or life without parole, LWOP) in the United States. According to the Summer 2021 edition of the quarterly report issued by the NAACP Legal Defense and Educational Fund, the number of people on death row imprisoned in state, federal, or military prisons was down to a thirty-year low on July 1st, 2021 to 2,474, which translated to a 33% decrease since its peak in July 2001 (Fins 1). In 2021, only 18 new death sentences were given, the lowest in forty years, and 297 less than in 1996. In the same year, Virginia became the first Southern state in the U.S. to abolish the death penalty, making the number of non-death penalty states (23) ever closer to the number of death penalty states (27) (Dunham & Holsinger 1-2). On the other hand, the number of people serving LWOP was 55,495 in 2020, a 66% increase since 2003, as reported by The Sentencing Project, a nonprofit organization that advocates for shorter prison terms (Nellis 10). The steady decrease in death penalty and the increase of life without parole sentencing in recent years brings up the question of whether LWOP is a more effective alternative to the death penalty in the United States.

Comparing Death Penalty and Life Without Parole

Financial Analysis

From a financial perspective, the total costs to execute a life without parole sentence are less than that of a death sentence. According to the Death Penalty Information Center, a non-profit that regularly publishes in-depth reports on the topic, death penalty, whose costs can be broken into trial-related costs, appellate costs, and incarceration/execution costs, are far more expensive than LWOP. Death penalty requires long trials and involves many highly-priced lawyers and experts on both sides of the case. Costs can even multiply when sentences are overturned (Dieter 16). In addition, separate correctional facilities or high-security areas of prisons with increased supervision and single rooms lead to higher costs to house death row inmates (McFarland 59). Taking California as an example, the jurisdiction with the most prisoners on death row, a 2011 cost assessment by Judge Arthur Alarcón, Senior Judge on the U.S. Court of Appeals for the Ninth Circuit, and Professor Paula Mitchell, adjunct professor of law at Loyola Law School Los Angeles, estimated the state's death row prisoners cost \$184 million more per year than those on LWOP and the least expensive death penalty trial could cost \$1.1 million more than the most expensive LWOP trial. Judge Alarcón and Professor Mitchell also anticipated that if the Governor commuted the sentences of those remaining on death row to LWOP, an immediate net savings of \$170 million could be realized, and a total savings of \$5 billion could be achieved over the next 20 years (Alarcón & Mitchell 110 & 222).

Psychological Analysis

From a psychological standpoint, life without parole may be a more satisfactory choice over death penalty for both families of victims and defendants. While common knowledge assumes death penalty brings justice and closures for families of murder victims, a 2012 Marquette University Law School study by Ph.D. Peterson Armour and Mark Umbreit compared the long-term experiences of family members of homicide victims in Texas and Minnesota and concluded that the Minnesota families, who saw offenders receive LWOP instead of death penalties, achieved improved physical and psychological health. They were also more satisfied with the criminal justice system due to a sense of feeling control over the finality of a life sentence instead of the continued appeals and uncertainty for death penalty that the Texas families had to endure (Armour & Umbreit 97-98). On the other hand, Professor Michael Radelet of the University of Colorado at Boulder argues that LWOP is also better than death penalty for families of criminal defendants, as death penalty not only punishes the inmate, but his/her family as well, especially women and children who often suffer from depression and anxiety disorders, and that goes against the Eighth Amendment (Radelet 795).

Shortfalls of Life Without Parole

While life without parole has been regarded by many as a humane alternative for the death penalty, it is arguably degraded by harsh policies in the 1980s and 1990s, including habitual offender laws such as the three-strikes legislation, where felony conviction is the exterminating factor for sentencing as compared to the level of violence. Whereas death penalty is used as a punishment for the most serious offenses, LWOP is not only used for such crimes but also for convictions of robbery, aggravated assault, kidnapping, or even drug crimes and non-violent repeat offenses (Girling 354). The Sentencing Project reports that in 2020, 20% of Florida's prisoners serving LWOP sentences were convicted of robbery, 14% of Virginia's LWOP population was convicted of aggravated assault, and around the nation, 1,760 people were serving LWOP sentences in federal and state prisons for drug-related offenses (Nellis 24). The harsh sentencing of LWOP has led to overcrowded prisons and burdens the criminal justice system with high costs of housing, feeding, and medical care, especially for those 55 or older who age out while imprisoned (Nellis 5).

Prisoners sentenced to life without parole in the United States experience many of the same problems as those charged with the death penalty, some to an even worse extent. Although prisoners facing death penalty undergo lengthy trials, they are provided with legal resources and have judicial and popular reflections for trial

and appeals; however, prisoners on LWOP see restrictive legal rights and fewer options to pursue in court (McFarland 70). LWOP sentencing does not provide any automatic review process or procedural safeguards for defendants' representation, and executive clemency is nearly impossible (Girling 350). Psychologically speaking, people on death row and LWOP are often considered by many as having lives that are beyond repair or redemption. Since these inmates will never be released from imprisonment, whatever they do to change themselves is considered futile. They can be denied educational and vocational programs in prisons, which are reserved for others who are expected to be released in due course. Therefore, feelings of isolation, loneliness, tension, and anger are often experienced (Willis & Zaitzow 574-575). Moreover, society often equates the seriousness of the crimes with the people who commit them and therefore labels LWOP prisoners and those on death row monstrous for life. However, some who work closely with these inmates daily offer a different perspective. Donald Cabana, who worked at the Parchman State Penitentiary in Mississippi for 25 years, "came to view the men on death row as men like most men, 'except for a bad break'" (Bandes 19). Similarly, Louisiana Deputy Warden Perry Stagg of the Elayn Hunt Correctional Center stated, "I believe that...life without the possibility of parole...does not make sense in most cases...these are not bad people, but people who did a bad thing, and at some point in their lives they deserve to tell their story...they deserve hope." (Nellis 27-28).

Conclusion

Is life without parole an effective alternative to the death penalty? This is an ongoing debate. Yet a review of the current academic literature suggests that while LWOP has strengths over the death penalty, its ultimate effectiveness remains in question. Perhaps as the use of death penalty continues to decrease, the concept of life imprisonment needs to be re-examined further to create a fairer criminal system in the United States where unnecessary incarceration and prison overcrowding can be reduced while prisoners' rights are elevated.

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