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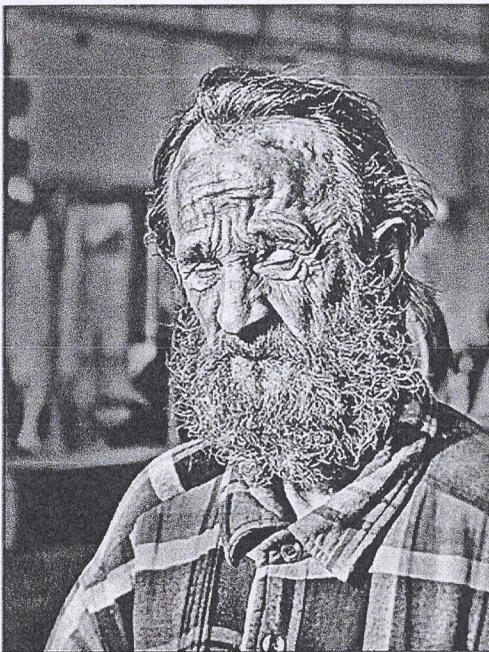
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Why California Must Abandon Eternal Punishment

November 2, 2013 by [Kenneth Hartman](#) [Leave a Comment](#)

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Contrary to the angry rhetoric of the past generation, it isn't reasonable to hold tens of thousands of men and women in prison for the rest of their lives, even if they're guilty of murder. In fact, it's an ahistorical aberration.

When I first came to prison, 34 years ago, the average time served for first degree murder in California was 12 years. Some who refused to participate in rehabilitation programs, who continued to act violently, or who demonstrated an inability to become fully rational, served longer terms, but they were the minority.

To put this onto the broader canvas, our peer nations have maximum limits on the amount of time anyone can serve, regardless of their commitment offense. (These upper limits are all lower than the average amount of time

served for second degree murder in this state.) Limitations make sense primarily because there is no limit on the desire for vengeance, and vengeance isn't justice. Prisoners are a perfect target for unrestrained blood lust and anyone doubting this need only look at California's overcrowded prisons or its voluminous Penal Code.

It's equally irrational to turn over the reins of the criminal justice system to those with the most vested interest in its continued expansion. This includes prison guards' unions, crime victims' groups, and politicians. For the guards, the matter boils down to jobs. There is simple math at play here: the less of us, the less of them. For the crime victims' groups, it's more about paybacks — or, more accurately, some of the crime victims' groups, the ones not surprisingly financed by the guards and trotted out to speak on behalf of the system whenever a serious challenge is brought to the status quo of interminable punishment. There are numerous pro-rehabilitation, pro-restoration crime victims' groups, none of which, again not surprisingly, receive support from any part of the system.

The role of politicians in the expansion of the prison system in California is a separate and special discussion. It's not as simple as panderers and demagogues manipulating gullible voters, although that's certainly a big part of the story. The more important issue is their profound influence on the debate about crime and punishment, and the damage they've done. Once politicians realized that fanning the flames of fear and loathing would move voters and secure massive contributions from the prison lobby, the language directed our way quickly degenerated down to "monsters" and

"scumbags" and other even worse non-human epithets. As they fought to out-hate us and prove they were tougher than their competitors, the mass of punitive laws they created grew until it devoured rationality. The problem is these politicians cannot now vote in favor of any prisoners' humanity, let alone murderers, regardless of shifting reality.

Thus the cul-de-sac the state finds itself in now. The guards, who believe we're meal tickets in blue pants, put here for the sole purpose of providing a rationale for their continued employment, fighting against any further downsizing of the prisons; the organized crime victims, who have been convinced their primary role is to lean on the heartstrings of society and demand carte blanche veto power over any reform to the failed practice of retributive justice; and, the politicians, who have pounded on so many podiums and launched so many bogus, counterfactual attacks against prisoners that they cannot support change without provoking their braying constituents into an uproar.

The upshot of all of this to-ing and fro-ing of responsibility to fix the mess is a dysfunctional prison system packed with thousands of old men and old women who have served far past any reasonable threat to society, and far past any desire for revenge from the majority of crime victims. The prisons have mutated into geriatric centers that cost many times over what would be expected for younger and healthier prisoners. California leads the nation in the percentage of its prisoners sentenced to the various forms of life, with 30% of its total condemned to slowly die inside the lethal electric fences. This, too, is not surprising, as life prisoners are money in the bank for our keepers, whipping posts for the angriest crime victims' groups, and fodder for many a politician's career ambitions.

Those of us serving life without the possibility of parole are the meal ticket that's guaranteed to keep paying dividends. As we age and become infirm we require an ever-increasing number of government employees to attend to our needs. And we never, ever leave.

In my own case, after more than three decades of living in one of the most stressful and unhealthiest of environments on earth, I've become a regular patient at the (still) constitutionally-deficient clinic. Between my chronic heart troubles, blood pressure issues, Hepatitis C, failing eyesight, and permanently wrecked digestive tract, I've been in and out of the hospital several times for disseminated Valley Fever. Every time I'm admitted there are two guards, making overtime pay, twenty-four hours a day, sitting in the hospital room watching the nurses and the doctors shuttle in and out.

And I'm only one of the 4,000 who will be staying for the rest of our lives. Do the math yourself. The numbers add up to staggering amounts that aren't sustainable, at least not if society desires schools and hospitals and other useful institutions.

Deeper down and more to the point, these policies just aren't right. It isn't morally right, not if it's measured by any system of morality that includes the idea of what is and what isn't humane. Despite the years of highly effective and grossly inaccurate manipulation of reality and the domination of the public discussion, it's still obviously not ethical to condemn tens of thousands of human beings to spend the rest of their natural lives imprisoned in some of the worst prisons in the industrialized world. And we, as a society, know this in our guts.

The proof is that to continue this fundamentally immoral edifice of punishment for the sake of inflicting pain it's necessary for our leaders to engage in a series of falsehoods. The first of these is that justice means satisfying any demand for vengeance, no matter how extreme, no matter how counterproductive, to achieving real safety and security. The second is that any amount of suffering, for any duration, is fully warranted as just deserts. The third is that, after being beaten down and tormented to extreme degrees, prisoners are not deserving of being treated as a human being, ever.

That's a series of lies, and it's obvious.

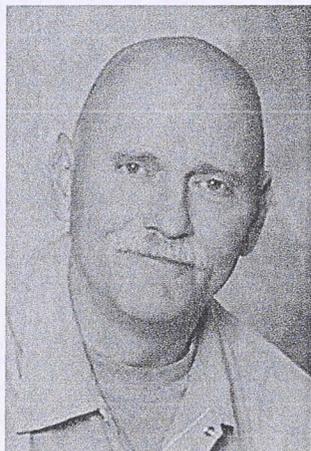
But the most egregious dissimulation, because it's so easily disproved and yet repeated so frequently as to be a sort of mantra, is that there is now, after the phantom population reduction, no one left in the prison system who doesn't pose an immediate and serious threat to the safety of free society.

On the little 600-man yard where I live, as just one microcosm example, there are at least a dozen men who can't get around without a walker. There are another dozen, maybe two dozen, who are in the end stages of one chronic, terminal disease or another, from cancer to Hepatitis C to emphysema. I can count another dozen who are simply so old and frail as to be incapable of mounting the energy to attack anyone, and still another dozen who've had their brains melted by

decades of overly-prescribed psychotropic medications. In other words, about ten percent of this one yard could not pose any actual threat to society even if they tried.

A rational, moral system of justice would have released these men some time ago to go and die with their families. California can't do that because it would be a tacit acknowledgment of their (our) essential humanity. It would also call into question the underlying rationale of eternal punishment, that everyone of us remains forever dangerous, too frightening, and too not human to ever be released.

A well-respected corrections expert named **James Austin submitted a report** earlier this year to the Three-Judge Court overseeing the population reduction fight. In it, he explained in well-reasoned and logically ordered prose, supported by indisputable facts and figures, how the state could safely release over 9,000 lifers, all of whom are well past their minimum eligible parole dates. (Fully 96% of these old lifers have already been deemed "low risk" by the Board of Parole Hearings' own psychologists.) The report was dismissed out-of-hand. Apparently, Austin had not received the memo in which lifers were branded off-limits forever. And he didn't even address the matter of the 4,000 men and women sentenced to life without the possibility of parole, a substantial percentage of whom could also be safely released, right now.



California's prison system, indeed, its entire criminal justice system, has become habituated to the idea that eternal punishment is a rational and morally acceptable response to crime. It is not. It's past time this false proposition is exposed for what it is: a well-concealed bait-and-switch con job perpetrated by a series of interlocked interest groups that profit from the infliction of mass misery. And that's the ugly, core truth.

Eternal punishment must end, and the sooner the better.

Kenneth E. Hartman

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About Kenneth Hartman

Kenneth E. Hartman has served 34 years of a life without the possibility of parole sentence in the California prison system. He is the founder and Executive Director of The Other Death Penalty Project, a national grassroots organization of prisoners seeking to end all forms of the death penalty, including life without the possibility of parole. He is also the editor and a contributor to the new award-winning anthology "Too Cruel, Not Unusual Enough."

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