New report documents “a living death” in US prisons

Fred Mazelis
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The American Civil Liberties Union has issued a massive report that meticulously documents the unconstitutional practice of life imprisonment without parole in federal and state prisons in the US.

The 237-page report, entitled “A Living Death,” details the conditions of 3,278 individual prisoners who have absolutely no prospect of release from prison, even though many of them have been jailed for offenses such as shoplifting three belts, breaking into a car and stealing a bagged lunch, or minor drug charges.

The flagrant violation of the Eighth Amendment ban on cruel and unusual punishment has been taking place on an increasing scale for decades, with the bipartisan support of Democratic and Republican politicians on the state and federal level. It is the product in large part of the four-decade campaign of state repression that goes under the name of the “war on drugs.” Seventy-nine percent of the 3,278 nonviolent offenders have been put behind bars on non-violent drug charges. Others are there because of property crimes, in many cases very minor.

The report is based on data obtained through Freedom of Information Act (FOIA) requests made by the civil liberties organization to the Federal Bureau of Prisons as well as to state Departments of Corrections. In addition, there were telephone interviews and correspondence with many prisoners. Out of 646 prisoners who received mail surveys, 355 returned them, more than 10 percent of the documented number of prisoners serving life sentences without parole for non-violent crimes. There were also numerous interviews with families of prisoners and with attorneys.

These subjects of the report are victims of the decades-long law and order hysteria, but they are only part of the story. More than 49,000 prisoners are now imprisoned for life without parole (LWOP), a number that has quadrupled in the past two decades. Most have been convicted of violent offenses, and they are not covered by the ACLU study. As the report makes clear, however, the 3,278 figure is an understatement, because many jurisdictions provide such expansive definitions of violent crime that they include incidents in which no violence actually took place. In addition, there are thousands of other prisoners who face de facto LWOP, having been sentenced to terms such as 350 years on multiple drug charges.

The state with the highest number of prisoners sentenced to “a living death” is Louisiana, with a total of 429. Ninety-five percent of the 5,225 prisoners at Angola State Penitentiary in Louisiana will die there. Many of the other state prisoners facing LWOP are in neighboring states in the Deep South.

Lest any conclusions be hastily drawn from this, however, the report explains that 63% of the number of inmates serving LWOP are in the federal system, the vast majority there on drug charges. The barbarity of life without parole is not confined to a few states.

As the report notes, the rate of imprisonment in the United States skyrocketed in the decades after 1970, soaring from a rate of 106 per 100,000 people in the decades between 1930 and 1975 to 743 per 100,000 in the last 35 years. The population in local, state and federal prisons and jails has surpassed the 2.3 million mark, the highest in the world. The number of prisoners facing life without parole is 51 times the number in Australia on a per-capita basis (i.e., adjusted for the difference in population) and 173 times the rate in Great Britain. The US is virtually the only country in the world that jails individuals for life with no possibility of release for crimes other than murder.

Fully 83.4 percent of the LWOP sentences handed down are mandatory, with the judges sometimes expressing disagreement but explaining that their hands are tied by three-strikes laws, mandatory sentencing for various drug crimes and other legislation that has been enacted in the past three decades, especially in the 1980s and 1990s. Prosecutors on every government level, however, have a great deal of discretion in the bringing of charges that will result in mandatory life sentences without parole upon conviction.

Seeking to demonstrate the grotesque character of the practice of life imprisonment as it is imposed today, the ACLU report gives numerous examples of charges that have destroyed the lives of thousands. Among the charges that have put individuals behind bars for life are the possession of a crack pipe; a trace amount of cocaine in a clothes pocket, invisible to the naked eye but detected by lab tests; and serving as a middleman in the sale of $10 of marijuana to an undercover officer.

Examples of very minor property crimes that have triggered life sentences are attempting to cash a stolen check; siphoning gasoline from a truck; and shoplifting several digital cameras.

The population of 3,278 studied by the ACLU report includes addicts who have sold small amounts of drugs to support their own addiction; girlfriends or wives of prisoners who have been caught up in drug conspiracy charges and have been unable to bargain for leniency for themselves simply because they have no knowledge of the conspiracy itself; and Vietnam veterans who were first exposed to drugs during the war and who have been turned down

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for drug treatment even when they requested it, in part because of the drastic cutbacks in federal spending for such programs.

Most of these prisoners, the report points out, don't belong behind bars at all, let alone behind bars for life. Many are in need of mental health or drug treatment programs, along with ancillary social programs and assistance, none of which are forthcoming.

The report also examines what it correctly calls the "staggering" racial disparity between black, white and Latino prisoners trapped in the LWOP "living death." It estimates that 65 percent of the 3,278 prisoners in this category are black, 18 percent are white and 17 percent are Latino. A disproportionate number of African-Americans are in the prison system, an even greater disproportion exists among those imprisoned for life, and a further disproportion characterizes those jailed for life for non-violent crimes.

In the federal system, blacks are sentenced to life without parole at 20 times the rate of whites. This is partly due to the disparity between sentencing for crack cocaine vs. powder, which has been reduced somewhat but still operates to ensnare a disproportionate number of African-Americans. The scandalous rate of mass incarceration of black youth is primarily the result of poverty and the social and economic devastation facing the most vulnerable sections of the working class, with racial profiling and the workings of the "justice" system also making their contributions.

The social and psychological consequences of LWOP, particularly as it affects those jailed for non-violent and in many cases minor offenses, are devastating, as can be imagined. The ACLU report, which focused on 646 individual prisoners in its study, quotes prisoners repeatedly using similar phrases to describe their lives: "a slow, painful death," "a slow, terrible, torturous death," "akin to being dead, with the one benefit of not having to suffer any more," and so forth.

Prisoners battle loneliness, depression, suicidal thoughts, separation from their children, inability to help aging parents, missing funerals and every imaginable result of being cut off from all hope for the future.

The situation documented by the report bears some comparison with Guantanamo, where more than 150 prisoners remain and hundreds endured torture and imprisonment for up to ten years, although for most their only "crime" was that they were turned over to the Americans for a bounty.

In an effort to dramatize the reality of life without parole and to win support for reform measures, the ACLU highlights a number of cases. More than half of the report consists of detailed and often heartbreaking stories of individual prisoners and their families.

Ricky Minor, a father of three who was addicted to methamphetamine, was sentenced to life without parole for attempting to manufacture the drug. Though he would normally have faced a two-and-a-half-year sentence, he refused to implicate others.

Clarence Aaron was a college student with no criminal record who was given three life without parole sentences at the age of 23 for playing a minor role in two drug deals in which he was neither the buyer, seller or supplier of the drugs. He is now 43, and has spent nearly 20 years in prison.

Lance Saltzman is serving life without parole for taking his abusive stepfather's gun from the house where they both lived. Saltzman, 21 at the time, argued that he was trying to protect his mother after the stepfather shot at her, but was sentenced to mandatory life without parole under Florida law because the latest offense came within three years of release from prison for a burglary he committed when he was 16.

The ACLU report concludes with a series of recommendations directed to the very same state institutions that are responsible for the shocking violations of basic human rights, international law and the US Constitution. There are specific sections of the report directed toward Congress, the White House, state legislatures, and state governors.

Seeking to convince Congress and state legislatures to change course, the report declares that an estimated $1.784 billion could be saved by eliminating life without parole sentences for those currently serving them. It calls on Congress to end federal life without parole sentences, to make the elimination of nonviolent life sentences retroactive and require re-sentencing, and to enact other reforms. It asks the Obama Administration to commute these sentences under the power granted to the President by Article II, Section 2 of the US Constitution.

The problem with these and similar appeals is that the conditions in the prison system are not the product of mistakes, unwise policies, or an excess of zeal in crime reduction. They are a conscious policy, adopted over many years, to weaken and divide the working class through time-tested methods of law-and-order hysteria and scapegoating vulnerable sections of the population. The explosive growth of the prison system, of which LWOP sentences are only a part, has gone hand in hand with the unprecedented growth of inequality and the systematic attacks on basic democratic rights over the same period.

Repression has continued to escalate under both Democrats and Republicans. The report notes that Obama has granted clemency at a lower rate than any modern US president, commuting only one sentence since taking office almost five years ago.

The billions of dollars spent on the prison system are viewed as a necessary expenditure to deal with the growing sections of the population that are deemed expendable. Just as in the policies of war and aggression overseas, the domestic repression inflicted on growing numbers of workers and youth is a symptom of the bankruptcy of this system and bears an increasing resemblance to the barbarism of the Nazi regime.

Life without parole sentences are part of the rule of the 21st century plutocracy, a ruling elite that is more and more hostile to the great masses of the population and their demands.

The full report can be viewed here.

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