

“Next Stop LWOP: The Other Death Sentence” by Jarvis Jay Masters

Now that Governor Gavin Newsom has fought off the state recall attempt, we will now get back to the task of ending capital punishment in California as it is—and not substituting it with life sentences without the possibility of parole (LWOP).

For too long, LWOP has been an alternative put forth by the death penalty abolition movement and criminal defense lawyers hopeless to keep their clients regardless of their innocence. For too many advocates, the issue of innocence is just secondary. As one capital appellate attorney once told me, "Now Jarvis, listen to me. We can always go back and right a wrong at some point. But right now, it's one step at a time. Just as we vote to end capital punishment, we will put it on the ballot to get rid of LWOP."

This laser focus of organizations as well as legislative propositions on merely ending the death penalty—without incorporating a vision of what should replace LWOP— means that too many families will be sentenced along with their loved ones to slowly dying in prison. As a society, when will we ask about the harm the system is causing to the loved ones of the incarcerated? The disproportionate rate of excessive sentencing on Black Americans and people of color speaks for itself. I would know: I spent 22 years in solitary confinement (the United Nations considers anything longer than 15 days of solitary confinement to constitute psychological torture).

I have been privileged to talk with groups like Amnesty International, the ACLU, Death Penalty Focus, and others. (I am even one of two plaintiffs in the ACLU's ongoing lawsuit to end the death penalty by challenging California's lethal injection protocols.) But I understand why people most affected by racism and the unfair biases in the legal system don't vote to abolish the death penalty in proportion to this pain we know so well: it's largely because LWOP is known as the other death sentence to us.

Back in 2016, California's Proposition 62 if passed would have replaced the death penalty with LWOP. When I asked my sister if she was going vote on it, her voice was not jiving:

"Fool! Are you crazy?! Do you think I want you to be in prison until you die on the floor in some nasty dirty cell? Not only that but -- you innocent too! Do you know how many people I'm seeing get arrested and never did anything wrong and because them DA's talk about -- I mean they want you to take deals -- all the time, deals, or you end doing life and lots of time and you didn't even do nothing. That's what they do -- they say do 2 years or do 12 years if some all-white jury find you guilty. You -- a lot of people take 'em deals. They scared though.... and Jay, that's what they want me to do, if I vote. We ain't voting for no stuff like that. They don't get no deals from me. They ain't--from nobody I know. They ain't slick, trying to get me to like they want. We ain't voting, period!"

My sister Carlette was right on! What she said came from her own lived experience—the very type that abolitionist organizations need to consider when they strategize in coalition building and legislation for

the future. What are we asking communities of color to compromise when we ask them to support LWOP?

No amount of money will end the death penalty. No more naively appealing to humanity or blind faith that the public can magically change. Instead, the abolitionist movement needs to concentrate on amplifying the voices of death row exonerees and LWOP survivors. Invite them to panels and events to describe what's it like being innocent on death row, and the untold sufferings caused to our families and friends when the judicial system tries to bury us alive. Invest in and trust our leadership.

I say bluntly: Whatever guilt trip this nation suffers from, it's not going to make amends by jailing people -- human beings, guilty or not— caged in a 9 X 4 cells for their whole entire life until we're found dead on the floor.