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Whole-life sentencing is wrong [1]

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The European Court of Human Rights has ruled, sixteen to one [3] that whole-life jail sentences, with no possibility of release are "inhuman" and "degrading". I applaud their judgement. Teddy argues that [4] the ECHR deciding for the UK takes away UK sovereignty, but that's fine with me so long as they make the right decision. Given the justifications we have for prison in general, complete life sentences make little sense.

Why do we keep people in prison? There have typically been four reasons people have given for punishment [5] of any sort: deterrence, direct prevention, rehabilitation, and retribution. I think it's clear that retribution has no place in a just system, and should be dismissed out of hand. In discussing the import of the others in the question it must always be kept in mind that there is a very strong presumption in any instance that someone should not be in prison. Firstly, this is because prison is the archetypal restriction of freedom [6], and secondly because prison is extremely costly [7] and we know that there are always other good uses for the resources they take up.

If there is any place for prison in a good society, then it is to keep dangerously ill people away from the others. The restriction on their liberty is justified by the extremely high costs they impose on others. But even in these cases we must always be vigilant. Even if someone is incurably violent when sentenced, they may not be five years later. If they are incurably violent deterrence may play little impact, and rehabilitation may not be possible. So the only question is whether they pose further harm to society. If they do not, we lack any justification for keeping them in prison. Given that individuals' circumstances, mentalities, and tendencies do change?and indeed should be expected to change more extensively if we expect more advanced treatments to become available?then we must surely not tie our hands in the future. And bear in mind that the boards deciding these issues are by no means unerring in the first place.

What of deterrence? Certainly it is clear that the prospect of one's entire life spent in prison is more unattractive than say, 25 years. And since it may be impossible to distinguish between incurable threats to society and crimes of opportunity [8] in original sentencing we might need to sentence individuals longer in order to preserve prison's deterrent effect. But I'd question how different the expectation of a long stretch, say 25 years, and life really is to an offender, given how heavily people tend to discount the future [9]. This compounds when we remember there is no certainty an offender will get caught or given the maximum sentence. If the difference in perceived costs to potential offenders is low (as I suspect), then it's likely the benefits from extra freedom, lower costs, and a more rational system outweigh the cost in lower deterrence.

Finally, we turn to rehabilitation. The statistics on recidivism and rehabilitation are fuzzy for various

reasons, but 2011 data suggests [10] around half of ex-prisoners are proven to reoffend (unproven numbers may be higher). Given that the same stats show that those who committed similar crimes, but who were given community orders, were much less likely to reoffend, I think there is a basic case for what seems obvious?putting people together with criminals, depriving them of time to gain skills and experience, and stamping with the badge of a convict is unlikely to guide them away from a life of crime. In any case rehabilitation is basically irrelevant for those sentenced to a whole-life, since they will by definition never be released into society.

So rehabilitation doesn't help the whole-life case, prevention by incarceration doesn't either, and deterrence only helps slightly. Therefore I believe the basic right individuals have to liberty, combined with the huge cost of prison means the ECHR is right to bring an end to the practice of life sentences without review.

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