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LAW COMMISSION OF INDIA

THIRTY-NINTH REPORT

REPORT ON THE PUNISHMENT OF IMPRISONMENT
FOR LIFE UNDER THE INDIAN PENAL CODE.

July, 1968

GOVERNMENT OF INDIA ● MINISTRY OF LAW

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Shri P. Govinda Menon,
Minister of Law,
New Delhi.

CHAIRMAN,
Law Commission,
5, Jorbagh, New Delhi-3.
July 15, 1968.

MY DEAR MINISTER,

I have pleasure in forwarding herewith the Thirty-ninth Report of the Law Commission on the subject of the punishment of imprisonment for life under the Indian Penal Code.

2. The question whether the punishment of imprisonment for life ought to be simple or rigorous was referred by the Ministry of Home Affairs to the Law Commission some time ago. The reference was made in view of the fact that several State Governments had sought for clarification on the subject, and because the Indian Penal Code and the Code of Criminal Procedure, 1898 were under revision. The subject, being of urgent and practical importance, was taken up last year for separate consideration by the Commission.

3. As usual, a Press note was issued inviting suggestions from the general public interested in the subject. The question was considered by the present Commission first at a meeting on the 16th April, 1968 and later on the 1st, 2nd and 3rd July, 1968 when the Report was finally approved.

Yours sincerely,
K. V. K. SUNDARAM.

REPORT ON THE PUNISHMENT OF IMPRISONMENT FOR LIFE IN THE INDIAN PENAL CODE

1. This Report deals with the nature of the punishment called imprisonment for life in the Indian Penal Code, and in particular, with the question whether, when such a sentence is passed on an offender the imprisonment he undergoes has to be rigorous or may be simple. This question is of urgent practical importance and several State Governments have sought a clarification of the law. It was accordingly taken up for separate consideration by the Law Commission.

Introductory.

2. Imprisonment for life, as a distinct punishment for certain grave offences under the Indian Penal Code, was authorised by law with effect from the 1st January, 1956, when the Code of Criminal Procedure (Amendment) Act, 1955, came into force. Though this Act was mainly concerned with making extensive amendments in the Code of Criminal Procedure for diverse purposes, it also amended Indian Penal Code in one important respect. The punishment of transportation was abolished altogether, and the old punishment of "transportation for life" was replaced by the punishment of "imprisonment for life".

Imprisonment for life substituted in 1955.

3. Section 53 of the Indian Penal Code, as enacted in 1860, provided for six, or rather seven, kinds of punishment, as follows:—

Punishment under the Indian Penal Code as enacted in 1860.

First.—Death;

Secondly.—Transportation;

Thirdly.—Penal servitude;

Fourthly.—Imprisonment, which is of two descriptions, namely:—

(1) Rigorous, that is, with hard labour;

(2) Simple;

Fifthly.—Forfeiture of property;

Sixthly.—Fine.”

It will be noticed, that while the section indicated the nature of the different punishments permissible under the Code, the term of the punishments mentioned in the second, third and fourth items, as also the quantum of the punishments mentioned in the last two items, was left to be specified in the relevant sections of the Code with reference to each offence.

Macaulay's exposition of penology. 4. The penology of transportation for life was expounded by Macaulay, the author of the Draft Penal Code, in trenchant terms as follows:—

“The pain which is caused by punishment is un-mixed evil. It is by the terror which it inspires that it produces good; and perhaps no punishment inspires so much terror in proportion to the actual pain which it causes as the punishment of transportation in this country. Prolonged imprisonment may be more painful in the actual endurance; but it is not so much dreaded beforehand; nor does a sentence of imprisonment strike either the offender or the bystanders with so much horror as a sentence of exile beyond what they call the Black Water. This feeling, we believe, arises chiefly from the mystery which overhangs the fate of the transported convict. The separation resembles that which takes place at the moment of death. The criminal is taken for ever from the society of all who are acquainted with him, and conveyed by means of which the natives have but an indistinct notion, over an element which they regard with extreme awe, to a distant country of which they know nothing, and from which he is never to return. It is natural that his fate should impress them with a deep feeling of terror. It is on this feeling that the efficacy of the punishment depends and this feeling would be greatly weakened if transported convicts should frequently return, after an exile of seven or fourteen years, to the scene of their offences, and to the society of their former friends.”

Transportation generally for life—two exceptions.

5. An analysis of the relevant sections of the Indian Penal Code shows that the punishment of transportation was, in all except two instances, for life. Only two sections provided for a sentence of transportation for a shorter term, namely section 121A dealing with conspiracy to commit offences punishable under section 121, and section 124A dealing with sedition. These two sections were inserted by an Amending Act of 1870. Under section 121A, the offender could be punished with transportation for life or for “any shorter term”. Under section 124A, the offender could be punished with transportation for life or for “any term”.

Classification of offences punishable with transportation for life.

6. The various offences under the Indian Penal Code, for which transportation for life was the only punishment or one of the permissible punishments, may be classified as follows:—

(a) offences punishable only with transportation for life, like being a thug (section 311) and extortion by threat of accusation of unnatural offence (section 388);¹

1. Section 226 (repealed in 1955) provided that unlawful return from transportation was punishable with transportation for life and the offender was liable also to rigorous imprisonment upto three years before such transportation.

(b) offences punishable with death or transportation for life, like murder (section 302) and waging war against the Government of India (section 121);

(c) offences punishable with death or transportation for life or rigorous imprisonment for a term (usually up to 10 years), like dacoity with murder (section 396) and fabricating false evidence with intent to procure conviction of a capital offence if an innocent person is convicted and executed in consequence thereof (section 194);

(d) offences punishable with death or transportation for life or imprisonment of either description of a term (usually up to 10 years), like attempt to murder by life convicts (section 307) and abetment of suicide of a child or insane person (section 305);

(e) offences punishable with transportation for life or rigorous imprisonment for a term (usually up to 10 years), like kidnapping in order to murder (section 364), dacoity (section 395) and house trespass in order to commit an offence punishable with death (section 449);

(f) offences punishable with transportation for life or imprisonment of either description for a term, like intentional omission by a public servant to apprehend a person under sentence of death (section 222) and rape (section 376).

7. Certain other provisions in the Indian Penal Code (as it stood before the Amending Act of 1955) relating to transportation require to be noticed. Section 55 provided that in every case in which a sentence of transportation for life had been passed, the Government of India or the Government of the place in which the offender had been sentenced may commute the punishment for imprisonment of either description for a term not exceeding 14 years. Section 57 provided that in calculating fractions of terms of punishment, transportation for life should be reckoned as equivalent to transportation for 20 years. Under section 58, in every case in which a sentence of transportation was passed, the offender, until he was transported, was to be dealt with in the same manner as if sentenced to rigorous imprisonment and was held to have been undergoing his sentence of transportation during the term of such imprisonment. Under section 59, in every case in which an offence was punishable with imprisonment for a term of 7 years or upwards, the Court could, instead of awarding the sentence of imprisonment, sentence the offender to transportation for a term not less than 7 years and not exceeding the term for which he was liable to imprisonment.

Other provisions relating to transportation.

8. In regard to the punishment of imprisonment, it should be noticed that none of the sections of the Indian

Duration of imprisonment.

Penal Code, as enacted in 1860 or subsequently, made any offence punishable with imprisonment for life. In fact, wherever rigorous imprisonment is prescribed in the Code as the punishment, the maximum term is 14 years or less. Even in the case of consecutive sentences, section 35(2) of the Code of Criminal Procedure limits the total period of imprisonment to a maximum of 14 years.

Transportation how carried out.

9. Apart from section 58 of the Indian Penal Code to which reference has already been made, there was no indication either in that Code or in the Code of Criminal Procedure as to how a sentence of transportation was to be carried out and what exactly it involved. There is, however, no doubt that when the Indian Penal Code was enacted, transportation meant transportation beyond the seas to the penal settlement in the Andaman Islands, and transportation for life meant transportation for the remaining period of the convicted person's natural life. Subsequently, with changing notions of penology, treatment of prisoners and management of penal establishments, the sentence of transportation ceased necessarily to involve convicts being sent overseas or even outside the Provinces wherein they were convicted.

Legal provisions relating to transportation.

10. First, it was enacted in section 368(2) of the Code of Criminal Procedure, 1898, that no sentence of transportation should specify the place to which the person sentenced was to be transported. Then, section 29 of the Prisoners Act, 1900, provided that the Governor-General-in-Council may, by general or special order, provide for the removal of any person confined in a prison under, or in lieu of, a sentence of transportation or imprisonment to any other prison in British India and the Local Government may similarly provide for such removal from one prison to another within the province. Under section 31 of the Prisoners Act, 1900, the Governor-General-in-Council could order the removal of a person sentenced to transportation from the prison in which he was confined to any other prison in British India. Finally, section 32 of the Prisoners Act, as amended in 1920, empowered the Local Government to appoint places within the Province to which persons sentenced to transportation should be sent.

Treatment of persons sentenced to transportation before 1956.

11. There was, thus, no statutory obligation imposed on the Government of India or a Local Government to provide any place overseas for the reception of such prisoners. The only place to which they were in fact sent was the Andaman Islands. There were administrative orders of the Government to regulate what prisoners should, and what prisoners should not, be regarded as fit persons for being sent there, and latterly, only such of them as volunteered were sent. As observed by the

Judicial Committee of the Privy Council in a judgment¹ of 1944,—

“No doubt, therefore, the sentence [of transportation] has been preserved for its deterrent effect and because, in certain cases, it may be both useful and desirable to send convicts to the Islands, but at the present day transportation is, in truth, but a name given in India to a sentence for life and in a few special cases for a lesser period, just as in England the term imprisonment is applied to all sentences which do not exceed two years and penal servitude to those of three years or upwards.*** So, in India, a prisoner sentenced to transportation may be sent to the Andamans or may be kept in one of the jails in India appointed for transportation prisoners where *he will be dealt with in the same manner as a prisoner sentenced to rigorous imprisonment.*”.

12. This was the position when the Code of Criminal Procedure (Amendment) Act, 1955, was passed, formally abolishing the punishment of transportation mentioned in section 53 of the Indian Penal Code. Besides making textual amendments in all sections of both the Codes which referred to transportation, this Act inserted in the Indian Penal Code a new section 53A, in the following terms:—

Amendment
of 1955 abo-
lishing trans-
portation.

“53A. (1) Subject to the provisions of sub-section (2) and sub-section (3), any reference to “transportation for life” in any other law for the time being in force or in any instrument or order having effect by virtue of any such law or of any enactment repealed shall be construed as a reference to “imprisonment for life”.

(2) In every case in which a sentence of transportation for a term has been passed before the commencement of the Code of Criminal Procedure (Amendment) Act, 1955, the offender shall be dealt with in the same manner as if sentenced to rigorous imprisonment for the same term.

(3) Any reference to transportation for a term or to transportation for any shorter term (by whatever name called) in any other law for the time being in force shall be deemed to have been omitted.

(4) Any reference to “transportation” in any other law for the time being in force shall—

(a) if the expression means transportation for life, be construed as a reference to imprisonment for life;

1. *Pandit Kishori Lal v. King Emperor*, (1944) L.R., 72 I.A. 1; A.I.R. 1945 P.C. 64.

(b) if the expression means transportation for any shorter term, be deemed to have been omitted.”.

Effect of
Section 53A
explained by
Supreme
Court.

13. The question whether a person sentenced to transportation for life in 1949 could legally be imprisoned in one of the jails in India and, if so, what was the term for which he could be so imprisoned, came up before the Supreme Court after the passing of the Code of Criminal Procedure (Amendment) Act, 1955, on a petition for *habeas corpus* filed by Gopal Vinayak Godse. Agreeing with the decision of the Privy Council in *Pandit Kishori Lal v. King Emperor*¹, and referring particularly to subsection (2) of section 53A of the Indian Penal Code, the Court held²:—

“Whatever justification there might have been for the contention that a person sentenced to transportation could not be legally made to undergo rigorous imprisonment in a jail in India except temporarily till he was so transported, subsequent to the said amendment there is none. Under that section, a person transported for *life or any other term* before the enactment of the said section would be treated as a person sentenced to *rigorous imprisonment for life or for the 'said term'*.”.

The legal position was further explained as follows:—

“Before Act XXVI of 1955 a sentence of transportation for life could be undergone by a prisoner by way of rigorous imprisonment for life in a designated prison in India. After the said Act, such a convict shall be dealt with in the same manner as one sentenced to rigorous imprisonment for the same term. Unless the said sentence is commuted or remitted by appropriate authority under the relevant provisions of the Indian Penal Code or the Code of Criminal Procedure, a prisoner sentenced to life imprisonment is bound in law to serve the life term in prison. The rules framed under the Prisons Act enable such a prisoner to earn remissions—ordinary, special and State—and the said remissions will be given credit towards his term of imprisonment. For the purpose of working out the remissions, the sentence of transportation for life is ordinarily equated with a definite period, but it is only for that particular purpose and not for any other purpose. As the sentence of transportation for life or its prison equivalent, the life imprisonment, is one of indefinite duration, the remissions so earned do not in practice help such a

1. (1944) L.R., 72 I.A. 1; A.I.R. 1945 P.C. 64.

2. *G.V. Godse V. State of Maharashtra*, A.I.R. 1961 S.C. 600.

convict as it is not possible to predicate the time of his death. That is why the rules provide for a procedure to enable the appropriate Government to remit the sentence under section 401 of the Code of Criminal Procedure on a consideration of the relevant factors, including the period of remissions earned.”.

14. While the legal position has thus been fully clarified in regard to persons sentenced to transportation for life before 1956, the question still remains as to how persons sentenced to imprisonment for life under any of the amended sections of the Indian Penal Code should be dealt with under the law as it now stands. Is such a sentence exactly the same as a sentence of rigorous imprisonment for life or as a sentence of simple imprisonment for life? Or is it a punishment different in quality, besides being different in duration, from a sentence of imprisonment of either description for a specified term? Is it legally permissible for the Court passing the sentence to lay down that the imprisonment shall be rigorous or shall be simple? Is it obligatory under the law to do so? If, following the *insissima verba* of the penal provision, the Court simply passes a sentence of imprisonment for life, is it or is it not open to the prison authorities to subject the prisoner to hard labour? These are the various questions of practical importance that arise out of the amendments made in 1955.

Questions to be considered.

15. In this connection, the views of the Joint Committee which reported on the Code of Criminal Procedure (Amendment) Bill, 1954, may be quoted:—

Views of the Joint Committee.

“The Committee note that the expression “transportation for life” has not been defined nor explained in the Criminal Procedure Code. In the Indian Penal Code, in section 53, “transportation” has been prescribed as one form of punishment. But even in the Indian Penal Code the term has not been defined and there is nothing to show what is the duration of transportation for life. As a matter of fact, this expression has not been defined in any Act. Transportation may be either for life or for a shorter term. *Therefore, the mere substitution of the expression “imprisonment for life” for “transportation for life” should not change the nature of punishment. As a form of punishment, imprisonment for life must remain distinct from rigorous or simple imprisonment.* Where, however, a sentence for transportation for a term only has been passed before the commencement of this Act, the offender should be dealt with in the same manner as if he was sentenced to rigorous imprisonment for the same term and all references to

1. Report of the Joint Committee, paragraph 8, under clause 2 of the Bill.

transportation for a term should be omitted.*** The intentions of the Committee have been clarified by the insertion of a new section 53A in the Indian Penal Code.'

No change intended in nature of punishment.

16. From the above citation it would appear that Parliament did not intend to make any material change in the nature of the punishment formerly known as transportation for life by calling it imprisonment for life. We have already noticed the judgments of the Privy Council and of the Supreme Court which make it clear that even before the formal abolition of transportation to the Andamans, persons sentenced to transportation for life were, and could lawfully be, dealt with in the same manner as persons sentenced to rigorous imprisonment. If this position was neither changed, nor intended to be changed, by the Act of 1955, the statement of the Joint Committee that "as a form of punishment, imprisonment for life must remain distinct from rigorous or simple imprisonment" is difficult to follow. In what way is it distinct, apart from its duration? It cannot, in practice, be distinguished from a sentence of rigorous imprisonment.

Omission of Section 58.

17. Reference has already been made to section 58 which formerly was sufficient statutory authority for dealing with persons sentenced to rigorous imprisonment. Although the section was intended to be a temporary holding provision authorising such treatment only until the prisoner was transported beyond the seas, it appeared to have served the purpose even in regard to prisoners who were actually never transported. It was logical to omit section 58, since with the abolition of transportation, there would be no need in future for the special provision, but the Act of 1955 did not make any other provision to indicate how exactly persons sentenced to imprisonment for life should be dealt with.

Prisons Act and Prisoners Act.

18. Naturally, the Prisons Act, 1894, and the Prisoners Act, 1900, are also silent on this point. Their provisions are not sufficient for the purpose of determining the character of imprisonment for life. As pointed out by a State Government, if imprisonment for life is distinct from rigorous imprisonment, there is no provision anywhere under which prisoners sentenced to life imprisonment can be treated as having been sentenced to rigorous imprisonment and it is doubtful whether a rule can be made under section 50 of the Prisons Act authorising such treatment.

References to life imprisonment in Supreme Court decisions.

19. Section 53 of the Indian Penal Code, which lists the punishments to which offenders are liable, has now two items reading—

"Secondly.—Imprisonment for life;

Fourthly.—Imprisonment, which is of two descriptions, namely:—

- (1) Rigorous, that is with hard labour;
- (2) Simple.”.

Juxtaposed in this fashion, the two items immediately give rise to the question to which description, rigorous or simple, does imprisonment for life belong or is it of a different third description. The question has not been raised in a direct form before the Supreme Court. In one case,¹ while setting aside an acquittal on a murder charge by the High Court of Madhya Pradesh, the Supreme Court decided—

“We consider that the ends of justice would be met if we sentence the accused to *rigorous imprisonment for life*.”.

In another case,² where the High Court of Bombay had sentenced the accused to *rigorous imprisonment for life*, the Supreme Court, dismissing his appeal said:—

“The conviction of the accused under section 302 of the Indian Penal Code and the sentence of *imprisonment for life* passed on him by the High Court are correct.”.

In a third case³ from Punjab, the Supreme Court converted the sentence of death into one of *imprisonment for life*. But the question before us has not been considered by the Supreme Court in any reported case.

20. It appears to have been raised for the first time in Kerala soon after the amendment of the Code came into force. In *Mathammal Saraswathi v. The State*,⁴ the Kerala High Court observed:—

Kerala High Court's view.

“In passing the sentence for the three murders, the lower court has not chosen to say whether the imprisonment the appellant is to undergo should be simple or rigorous. Section 302 as amended by the Schedule to the Code of Criminal Procedure (Amendment) Act, 1955 (Central Act XXVI of 1955) only states that the alternative punishment for murder shall be “imprisonment for life”, and not rigorous imprisonment for life or simple imprisonment for life. The court passing the sentence has, however, to keep in view the provisions of section 60 of the Penal Code and choose one or the other form in view of all the circumstances.

1. *State of Madhya Pradesh v. Ahamadullah*, A.I.R. 1961 S.C. 998, 1002.

2. *K. M. Nanavati v. The State of Maharashtra*, A.I.R. 1962 S.C. 605, 608 (paragraph 3), 630 (paragraph 87).

3. *Jai Dev v. The State of Punjab*, A.I.R. 1963 S.C. 613, 621 (paragraph 24).

4. A.I.R. 1957 Kerala 102.

“Recently we had another instance where the Sessions Judge had failed to specify whether imprisonment for life awarded by him was rigorous or simple. In that case the Inspector General of Prisons had sought our direction as to what description of imprisonment the prisoner should be made to undergo. Here, we clarify the position by stating that the imprisonment for life in this case shall be simple imprisonment, and not rigorous.”

Consideration of Section 60.

21. Now, section 60 of the Indian Penal Code provides that “in every case in which an offender is punishable with imprisonment which may be of either description, it shall be competent to the Court which sentences such offender to direct in the sentence that such imprisonment shall be wholly rigorous or that such imprisonment shall be wholly simple or that any part of such imprisonment shall be rigorous and the rest simple.” Since in the case of a conviction under section 302, the offender is punishable with imprisonment for life, and not with imprisonment which *may be* of either description (as, for instance, in the case of a conviction under section 304A), section 60 does not seem to us to be applicable. An argument might possibly be based on the definition of “imprisonment” in section 3(27) of the General Clauses Act, 1897, but it is doubtful whether in the context of section 53 or section 302 of the Indian Penal Code, that definition could apply.

Orissa High Court's view.

22. Dissenting from the view taken by the Kerala High Court, the Orissa High Court has held¹ that “imprisonment for life” means “rigorous imprisonment for life”. The main grounds on which this decision is based are—

(i) the proposition laid down by the Privy Council² and reaffirmed by the Supreme Court³, that a person sentenced to transportation could be treated as a person sentenced to rigorous imprisonment;

(ii) the discussion⁴ of the question in the Report of the Joint Committee which considered the Code of Criminal Procedure (Amendment) Bill of 1954, particularly the observation that substitution of “imprisonment” for “transportation” should not change the nature of the punishment;

(iii) the use of the expression “rigorous imprisonment for life” in some judgments of the Supreme Court;

(iv) the non-applicability of section 60 to the sentence of imprisonment for life.

1. *Urlikia v. The State*, A.I.R. 1964, Orissa 149.

2. *Kishori Lal v. Emperor*, 72 Ind. App. 1; A.I.R. 1945 P.C. 64.

3. *G.V. Godse v. The State*, A.I.R. 1961 S.C. 602.

4. See paragraph 15, *supra*.

None of these grounds, however, appears to us to lead definitely to the conclusion that imprisonment for life must be rigorous.

23. Adverting now to the questions posed in paragraph 14 above, it appears to us that they cannot be answered with any degree of certainty or assurance. We are inclined to think that, as the law stands at present, a sentence of imprisonment for life cannot be equated either with rigorous imprisonment or with simple imprisonment for life, and the law does not authorise the Courts which find it necessary to pass that sentence, to direct that it shall be one or the other. There is also no direct provision in the law which enables the executive authorities to regulate the manner in which such sentences are to be carried out. This unsatisfactory state of affairs can only be remedied by suitable legislation.

Uncertainty
of present
law.

24. As regards the direction in which the law should be clarified, there are the two alternatives indicated respectively by the judgments of the Kerala and Orissa High Courts discussed above. According to the Kerala High Court, imprisonment for life, like imprisonment for a specified period, may be of either description and the court awarding the sentence should have the discretion—and the duty—to direct in the sentence that such imprisonment shall be wholly rigorous, or wholly simple, or partly rigorous and partly simple, as provided in section 60 of the Code. If the Orissa view is to prevail, the clarificatory legislation will take the simple form of stating in the appropriate place that “imprisonment for life shall be rigorous.” A third possible course may be to clarify that, as a kind of punishment, this is distinct from rigorous or simple imprisonment, and to make provision in the Prisons Act, 1894, the Prisoners Act, 1900, or elsewhere for the manner in which the life sentence is to be carried out.

Clarification
of the law—
possible
alternatives.

25. In favour of the first alternative it can be said that cases occasionally arise where a capital offence has been committed but the circumstances are such that the offender does not merit the sentence of rigorous imprisonment for life, *i.e.*, imprisonment with hard labour, and that the court trying the case should have the power to give a direction under section 60 of the Penal Code that, having regard to those circumstances, the imprisonment should be simple and not rigorous. The case of *Mathammal Saraswathi* (*op. cit.*) which came up before the Kerala High Court (where a pregnant woman who found life in her husband's house intolerable decided to put an end to herself and also her three children, but, as fate would have it, succeeded only in regard to the latter) was undoubtedly of this character. But then, such hard cases are rare, and when they do occur, they can be readily, and perhaps more adequately, dealt with by the Government exercising the powers of commutation and remission vested in them. Section 55 of the

First alter-
native not
suitable.

Penal Code would seem to be very relevant and specially designed for this purpose.

26. It has to be borne in mind that, as analysed in paragraph 6 above, the offences for which the sentence of imprisonment for life is prescribed in the Penal Code are of a grave and heinous character. Where it is prescribed as the sole punishment or as an alternative to a sentence of death, there would be little scope in the general run of cases for the court to make the imprisonment simple and not rigorous. Some slightly less serious offences are made punishable with imprisonment for life or imprisonment of either description for a term. If in such cases the circumstances are such that a lenient view should be taken of the offence, the court has already the power to impose simple or rigorous imprisonment for a suitable period and would not have to impose a sentence of imprisonment for life. It does not therefore seem to us either necessary or desirable that under the law the punishment of imprisonment for life should be declared to be either rigorous or simple and that the court should have the discretion to direct in the sentence which kind it would be.

Third alternative not suitable.

27. The adoption of the third alternative, namely, that of keeping the sentence of imprisonment for life a distinct punishment, would involve the working out of details as to the manner in which the sentence is to be carried out. When convicts were transported overseas to the Andamans, the conditions of their incarceration were totally different from the conditions attaching to rigorous or simple imprisonment undergone in the Indian jails, and were regulated by rules and orders applicable only to the Andamans penal settlement. In regard to life imprisonment, the questions would naturally arise whether it should be milder or severer than rigorous imprisonment, whether life convicts should be kept in a separate category and, if so, how. We do not think there is anything to be gained by raising, and then attempting to solve, these problems.

Recommendation.

28. We are accordingly of the view that the best course will be to provide categorically in the Indian Penal Code that "imprisonment for life shall be rigorous". As indicated by the transitional provisions made in section 53A and the statement in the Joint Committee's Report, the intention of Parliament was not to make any material change in the pre-existing position which was to treat persons sentenced to transportation for life as if they had been sentenced to rigorous imprisonment. We recommend that, after section 55A of the Code, the following section be inserted:—

“56. Imprisonment for life shall be rigorous.”.

Imprisonment for life to be rigorous.

29. Finally, while our present proposal is limited to the immediate problem of resolving the doubts that have arisen as regards the nature of this punishment, we have noted for future consideration the question whether it is at all necessary even in regard to capital offences and whether it should be retained without modification in regard to the numerous other offences now so punishable. It strikes one as extremely anomalous that an offence like sedition should be punishable with *either* imprisonment for life or with rigorous or simple imprisonment which may extend to three years, but not more. These questions will have to be considered when the Indian Penal Code is taken up for revision.

1. K. V. K. Sundaram—*Chairman*.
 2. S. S. Dulat,
 3. B. N. Lokur,
 4. Mrs. Anna Chandi,
- } Members.
5. S. Balakrishnan, Joint Secretary and Member.

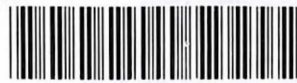
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*Joint Secretary and
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