Page 1:  
LAW COMMISSION  
OF INDIA  
  
‘THIRTY-NINTH REPORT.  
  
REPORT ON THE PUNISHMENT OF IMPRISONMENT  
FOR LIFE UNDER THE INDIAN PENAL CODE.  
  
Joly, 1968  
  
GOVERNMENT OF INDIA @ MINISTRY OF LAW  
  
  
Page 2:  
Shri P. Govinda Menon, CHAIRMAN,  
  
‘Minister of Law, Law Commission,  
‘New Delhi. 5, Jorbagh, New Delhi-3.  
July 15, 1968.  
  
‘My Dear Minister,  
  
1 have pleasure in forwarding herewith the Thitty-ninth  
Report of ‘the Law Commission on the subject of the  
Botishment of imprisonment for life under the Iniian Petal  
  
2, The question whether the punishment of imprisonment  
fo ite ought be'smle of porous was refered 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, 1808 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 Commnission first at a  
‘meeting on the x6th April, 1968 and later on the 2st, and and  
3rd July, 1068 when the Report was finally approved.  
  
‘Yours sincerely,  
K.V. K, SUNDARAM.  
  
  
Page 3:  
REPORT ON THE PUNISHMENT OF IMPRI-  
SONMENT FOR LIFE IN THE INDIAN  
PENAL CODE  
  
1. This Report deals with the nature of the punishment a  
  
called imprisonment for life a the indian Penal Code a  
IR gandr, Ue the Gut wheter, when “sc  
‘erence is pasted "on af offender the nprsoament  
  
Eas'o be rigorous or may be scble Tie gue  
lion ie of urgent practical Mmportance end several State  
Governments have sought. carifeation of the law. i  
was Vaccordingly taken up for separate eonsidecation’ ty  
the Law Commission.  
  
2, Imprisonment for Ife ew dlatnct punishment for tower  
  
spk cgeys eves ner the dn Ha! Co ae  
dy daw orth effect fromm the Ist aniacy’ 155, So  
  
‘when’ the Code of Crtminal Procedure (Armendimest) Act,  
  
1965, came into force. ‘Though this Ac\ was mainly) com?  
  
cerned’ with making extensive amendments in the  
  
Geiminal” Procedure for diverse purposes, i also amen  
  
Jalan Peal Code in one. “imperant reject, ihe pais  
  
‘ment of transportation was abolished elogetber, sad the  
  
gla Punkshment of “transportation for Ife’ was’ replaced  
  
by te punisbraent of "imprisonment for fe”  
  
Weak  
  
2. Section 59 of the Indian Penal Code, as enacted {1 Pusment  
40, provided for six, or rather seven, kinds of punish- Set  
  
ment flows a>  
Pi—Desth; =  
Secondly —tronspetation:  
  
Thirdly —Penal servitude;  
Fourthly Imprisonment, which is of two descrip  
  
ne: aly  
(OD Rigorous, that is, with  
Eat Satoot  
@) Sime,  
Putty —Forleltre of propery;  
  
Sizthly—Fine”,  
  
1t will be noticed, that while the section indicated the  
nature of the different punishments permissible under the  
Code, the “term of the punishments mentioned t\_ the  
second, ‘third and fourth items, as also the quantum of the  
inishments, mentioned in the last two ems, wee left te  
  
specified in the relevant sections of the Code with re  
oxen 10 each offence  
  
  
Page 4:  
Macey», 4 Tho penology of transporttion for life was expound.  
SEER oa by Macaulay, the author of the Dreft-Pentl Cole, 1  
‘sen: “" frenchant terms as fllows:—  
  
“The pain which is caused by punishment is un-  
mixed evil. Its by the terror whieh ft inspires that it  
produces good; and pechaps no punishment inspires so  
uch tervor ih propertion to the actual pain which. It  
‘causes af the “punishment cf transportation in this  
country. P imprisonment may be mare pala  
Sil'in’ the actual endurance; but its aot s0. touch  
dreaded beforehand; "or dost a sentence of imprison”  
‘ment stcike either the offender or the byseanders with  
fo. much horror ap a sentence of exile’ beyond what  
they call the Black Weier. This feeling, we believe,  
trie hel eos the mstery which cerbange toe  
  
te of the teatsported conve” The sepacation reser  
Bes “that which takes place at the moment of death,  
‘The criminal ls taken for ever from the society of all  
‘who are acquainted with him, and conveyed by feans  
‘of which the natives have but an indistinct” notion,  
fover an element which they regard with extreme awe,  
{ove distant countey of which they know nothing, a  
from which he sever io cutuon eg natara dat  
fate should imprest them with a. deep fecling  
terror 1 on this cong Wat, the eacy ft the  
Punishment” depends tnd tis feeling would be greatly  
Weakened it transported convicts should frequently  
zcturp, after an exile of seven of fourteen year, to the  
Scone of their offences, and to the socieiy” of theit  
{former friends  
mora, 5A analysis of the relevant sections of the Indian  
Se wows that the punishment of tansportation  
ie EE tan, in al except two instances, for ife. Only two, sec:  
Mia. SF ions "provided for a sentence” of transportation for a  
shorter term, namely section 121A dealing with conspiracy  
\* to commit offences punishable Under section IDL, en ses:  
‘Hon 124A dealing with sedition. These two sclions were  
{peer by an Arsending Act of ro Unde ect 131A  
fender could be Punished with transportation, fot  
lle of for “any “shorter term” Under sector 124A, the  
‘fender eould be punished with trensportation for lie ‘or  
for “any term’.  
Guvstgwice 6. The various offences under the Indian Penal Code,  
siete for which transporiation fr ife wes the only punishment  
Ente” or one of the permissible punishments, may by classiled a  
  
oraics™” follows:  
  
(a) offences punishable only with transportation  
{or life lke being a thug (section 311) and extortion  
1 Urea of ectbatin ot unnatral fence "ection  
  
io sat ne wi Ro eh eee  
  
  
Page 5:  
3  
  
(b) offences punishable with death or transporta-  
tion for life, ke frurder (section 902) and waging war  
‘Mgainst\_ the Government of India (section 121);  
  
err pane hath mre  
  
Muay oe cso Sey, Mle decty ih mura  
  
ae Cutan, Seay  
  
(se matt eae  
  
Sirona wieare owe  
ym pie dh ce  
  
(@) offences punishable with transportation for  
tute &igoroug imprisonment “foro orm (usualy UD  
to ger) ike Kdnapng sn orer to mart (oe.  
tion 3), daclty (secon SE8) and house terpaas In  
Diler commit)anvoflence punishable. with death  
(Gestion 49)  
  
(f offences punishable with transportation for  
tuge & igypaoantent of either description for a term,  
like fntenona! ominsion by a public survant to 8  
heads person under sentence of death (ection 222)  
En rape" ection 36)  
  
1. Certain other, provisions in the Indian Penal Code (a5  
  
tation require. to be  
fe''every caue in which a sentence of transportation for  
[ite had been parsed, the Government of faia or the Gov  
frnment of the place in which the offender had been sen  
fenced. rhay commute the punishoient for mprisoament  
WPitner Ueceiption fora term not exceeding 14. years  
Section 87 provided that in calculating fractions of term of  
punishment, ‘transportation for. ite Should be reckoned 3  
Bouivalent'to traneportason for 20 years Under section  
iy every et ip whch een f wangprtain Wat  
assed, the offender, until he was t was to be  
Base te eum of seemed to gorau  
imprisonment and war beld tg have been undergoing his  
Sektence ef trangportation during the term of such  
{nprsonment. ‘Under section $9, n every ease in which  
Srvoffence was punishable seth imprisonment for 3"term  
OF years of upwards, the Court could, instead of award  
Ing the sestence of imprisonment, sentence the oferder 10  
ngperiaion fo a form not leas than T years and not ex  
eedinthe term for whieh he was bable to imprisonment  
  
8 In regard to tho punlahment of imprisonment, it 2  
  
should” be noticed that fone of the seetions of the cndtan '  
  
oer  
  
seed tine te” Pade Al OF 68) relating fo tape  
wicca Section 85 provided that at.  
  
©  
  
  
Page 6:  
Tengen  
eset  
Mon etre  
16  
  
9, Apert trom section 38 of the Indian Penal Code to  
which “Teference fos already been made, there Was 30 in"  
fication either in that Code or in the Code of Criminal Pro-  
‘cedure a5 to how sentence of tar ‘was to, be  
arsied cut and what exactly It involved, ‘There ty how  
fever; no. doubt tat whea the Indian Penal. Code. was  
enacted, transportation meant teansportation beyond the  
seas to the penal settlement in the Andaman Salands, and  
transportation for fe meant transportation for the real  
Ing petiod of the convicted. person's natural life. ‘Subse  
quenily, “with changing notions of penology, treatment of  
Prisoners “and management of penal establishments, the  
fenlence of transportation ceased necessarily to. involve  
canviets Heing sent overseas oz even outside the Provinces,  
‘wherein they were convicted.  
  
10. First, it was enacted in section 9682) of the Code  
¢é Criminal Procedure, 109, that no sentence of trans  
postatlon ‘specify the place’to whieh the person  
sentenced was to be transported. Then, section 29 "of the  
Pegoners, Act, 190, provided that the’ Governor. Ceperal  
in-Counell may, by’ general oF special ovder, provide for  
‘the removal of ny person confined ia 2 prigoh Urder, or  
dn Yew of, a sentence of transportation » ar imprisonment  
to any other prison in British India. and the Local Gov  
‘ernment may similarly provide for such removal from  
‘one prison to another within the province, Under section  
31 ofthe Peisaness Act, 1900, the Governor-Cieneral-in-Coun-  
‘il could order the removal of a person sentenced 4 trams-  
portation for the prison in witch he wat evened to any  
‘ther prison in British Tada. Pinal, section 32 of the  
Prisoners At es amended (in 1020, empowered the Local  
Government io appoint places within the Province. 0  
‘which persons sentenced to transporiation should Yo sent.  
  
11 There was, thus, no statutory obligation imposed  
an the Sarat of aon ‘Lat Boerne  
provide any place oversea for the reception of such pie  
Eonera, ‘The only place to which they were im fac gent  
twos the Andaman Islands. "There were administrative  
Urders of the Goverament to segulate what prisoners  
‘Should, and what prisoners should net, be regarded a At  
fersons for being bent there, and Tetsey, orl such of  
‘om as volunteered were went. As observed “by che  
  
  
  
Page 7:  
5  
‘adil Committe ofthe Privy Couneil in judgment’ ot  
  
“yg hyn eo  
sir ts tea  
  
aie cera eee ae  
aaa  
Slat eee saat gd he  
iG pene Sta a meh  
Pear carmen st  
  
12 This was the position when the Code of Criminal  
Procedure (Amendment) "Act, 1085, was passed, formal  
abolishing the punishment of ‘transportation ‘mentioned in  
‘ection $9 of the Indian Penal Code. Besides making tex  
{ual amendments in all sections of both the Codes which  
referred to transportation, this Act inserted in the Indian  
Penal Code a new section S9A, in the following terms:—  
  
“SBA. (1) Subject tothe provisions of subsection  
{@) and sub-seetion (2), any felerence to “ranaportes  
‘tion for life” in any ‘other lew for the time being  
in force or in ang instrament or onder" having effect  
by site of any auch law or ef any enactinsnt repeal-  
SESRAI' construed a reference to “imprisonment  
  
2) In every cate in HS) sortenee of ean  
penta oe fr he, buen pasa bec the come  
encemest of the Gode of Criminal Procedure  
‘Amendosent) Act, 1955, the offender shall be dealt  
within the same manner asf sentenced 10 Ngorous  
Jimprionment for the same term  
  
(2) Any reference to trangprtalion for « tem  
oz 10 transportation ‘shorter term (by what  
ver name falled) in any other low forthe sme being  
‘in forwe thal be deemed to have been emitied  
  
() Any reference to. “transportation” in an  
thet Taw forthe time being in foree shall“  
  
2) if the expression means transportation  
tor Mf, be construed as a Feference te Raprion  
rent for life,  
  
1, Pag Kibrh Lal vine Fp 48) R73 UA  
Eraser  
  
  
  
Page 8:  
6  
  
() i the expression | means transportation  
or any shorter term, be deemed to ave. been  
  
fist, 8 The autin wht pr wnt! to ss  
Sst iste ene ced co  
EE Ss Be ino ela Em  
  
Sapeeme Court alter the pasting’of the Cote of Criminal  
Procedure (Amendment) ‘Act, 1065, "ana petition fot  
habees corpus fied by Gopal'Vinajak Goes” Agreeing  
vith the decison of the Privy Coutell n Pandit Ks  
  
Eal'v. King Emperor, and relrsing garticwarly to sib-  
Een) of win HA ofthe Kalan Penal Coe, the  
  
“whatever justiestion there might have \_beon  
for the contention that perth aehtnced 0 ta  
portation coud not be legally made to Undergo rigor.  
Sus imprisonment in a Sal i India excepe emmporar-  
Ip tll be was s0 transported, subaecens to tesa  
Smnensiment there io none. Under tat section, pers  
fon transported for life or any other term before’ the  
Sactment of the eld section would be seated "se. 2  
peron sentenced t9 rigorous imprizonmuct for life oF  
Jor the sid term  
  
“The legal position was further explained as follows:—  
  
“Before Act XXVI of 1955 a ventence of transper-  
tation for lfe could be undergone by a pikoner by  
Way of rigorous imprisonment for lle in 8 designated  
friton in India, After the said Act, sich a convict  
Bhai be‘ deat: with in the same manner as one sex  
{enced to rigorous imprisonment lor the seme tera  
Ties thes sentence famed of remitted by  
Sppropriate autorty “under the Televat  
Tine indian Penal Cose or the’ Code of Criminal  
Precture 4 riener sentenced io fe imprsonmeat  
Je bound in law to serve the life term in picon  
  
flee Eramed "under" the Pring Act enable such @  
frisoer to earn remissions—ordiasy, special and  
Bfete-and the said remissions will be given. credit  
owards is term of imprisonment. For the purpose  
CCworking out the semlarons, the sentence of trance  
fortatiog for fe fe ordinacly equated. with a des  
Fite poriod, but itis only for thse particule purpose  
find aot for any other purpose. As" tha sentenco of  
angpertation for le or ‘te Praon ecivalent, the  
{ife imprisonment, ie ene of indefinite duration, the  
"Souuclone go carted Go'mot in-practice help much @  
  
sah LEA ATR 9h Pe  
Ged saw of Makra NIR. 196 S.C.  
  
  
  
Page 9:  
canviet as itis not possible to predicate the time of  
‘is death. ‘That is why the rules provide for a proce-  
dure to enable the appropriate Govertzuent to remit  
the yentence under section 401 of the Code of Crimit=  
‘al Procedure on a consideration of tho relevent fac=  
‘ors, including the period of remissions earned".  
  
14. White the legal poston bas thus been fully’ laste Qecine  
‘ed ig regard to, persons. sentenced to. tranaportation for"  
life Before 1884, she question sill remains ss to now peceozs  
scstenced to inpraonment tor lle andes acy” Of the  
  
[mended sections of the Indian Penal Cade should ‘be  
  
ican with ander the law ap St now acd fs such oot  
  
tence exaccly the same as a sentence of rigorous impisoa:  
  
tent for de or a a senvence of simple imprisonment lor  
  
Ife? ‘Gr is it a punabment citerent in quality, estces  
  
being ciferent in duration, from tseateage of imprison.  
  
ent ol either desertion fers, apeciied term? is i  
  
legal pormissste for the Court pursing the sentence 12  
  
[iy sown that he imprlzoncsens sal be nigorcus or shall  
  
be simple’ Tee obligatory under the lato do #02 ly  
fouawing the iulsime verbo of the penal provisisn, Ihe  
  
Court simply panes a sentence of utorisanment fet Ife  
  
Ig it of fe it nat open to the prison authorities to rubjest  
  
the prsone: to hard labour? ‘These are te vasious quai  
  
Lon’ of Practical importance that svise out of the amend:  
  
ments made in 168,  
  
1. In this connection, the views of che Joint Com- vers ot  
  
‘mittee which reparted on! the Code of Criminal Procedure te oat  
  
(Amendment) BU, 1854, may be quoted':— Coates.  
  
“The Committee note that the expression “trans  
  
portation fer life” has not been defined mor expla'n-  
G4 in the Criminal Procedure Code. “In ‘the "Inclan  
Penal Code, in section 83, “transportation” has been  
‘preseribed as one form of punishment. But even in  
{She Tadian Penal Code the form has not been defined  
tnd there is nothing to show what is the duration of  
{onsporsation for ile. As a matter of fact, this  
‘pression has not been defined in eny Ack. Transporta~  
Elon rasy be slther for life or for’ a shorter "te=,  
‘Therefore, the mere substitution of the’ expression  
mprusonment for life" for "transportation for life”  
shoud not change the nature of punishment. As a  
form of punishment, ‘mprisonment for Ife must re-  
‘namn distinct from rigorour cr simple imprisonme!  
‘Where, however, @ sentence for transportation for &  
term only hay been Paved before the commencement  
fof this Act, the offender should be dealt with In tie  
‘Some manner se if he wae sentenced 10 rigorous fei  
Drisonment for whe some term and all eferences ""o  
  
Renee ate Fiat Conic, paraach under cae > ofthe  
  
a!  
  
  
Page 10:  
transportation for a term, shoud be omitied\*0\*  
Intentions of” the Commitee ‘hve bean Sained SF  
theinerton ofa new sein Sin te Indian Penk  
  
Netane16. Prom the above citations would appear that Pare  
  
‘Beet lamene did aot intend to make aay maieeal change ty  
  
HEEAGC the nature of the puntshmment torsecly new ar San  
portation for life by calling 1 imprisonment for Ife “We  
fave aieady noticed the judgmatts of the Privy Count  
and of the Supreme Court which make ‘t lear von even  
Hetfore the formal abolition” of wanspertation “te  
Andtmans, pergns sentenced to teamporiation, for fe  
sere, and could lawiully be, cea ath in the” seme  
Jountier as persoug sestenced 10 rigorous imprisonment,  
WF ths positon wos nether changed, nor inaded to be  
hanged, by the Aet‘of 1955. the statement ofthe Joint  
Commitee that “as a form at punishment, imprissnmet  
‘or life must remain eines trom rgorots or sgple f=  
Prlsonment” is dteit to folow.”Int'what way "ft dl  
Ect apart trom ft duration? Tt cana in practice, be  
Alisgllabed from sentence of rigorous Impeisoment  
  
Quinn ot 37. Reterence has already been made to. section 58  
  
Seaton’ which formerly was aulfleient statutory autherity Zor deale  
ing with persons Sentenced to rigorous imprisonment. Al-  
though the section was intended to be a temporasy hold  
ing provision authorising auch treatment ony wnt the  
prisoner was transported beyond the seas, it appared to  
ave served he prpov even incor powers wha  
‘were actually never trensported. 1t-was logical to om  
section 58, since with the aboition” of transportation,  
there would be no need in future for the special provision,  
bur the Act of 1985 did not make any other provision 10  
Indicate How exactly. persons sentenced to impriscr mest  
{or life should be dealt with,  
  
Pins Ac 18, Naturally, the Prisons Act, 189, and the Prisoners  
  
‘se Fikiners Act, 1900, are alco silent on this point, ‘Their provisions  
  
Be gre not suMelent for the purcose of determining the  
Shoracter of imprisonrcent for lite As pointed out by 3  
State Government, It imprisonment for life ty istinct  
from figorous impelsoament, there is no. provision any-  
‘there under whieh prisoners sentenced to life imprison  
‘men! can be treated ss having ‘een senterced to rigorous  
Emprisonment and it is doubtful whether a rule ean be  
made under section 80° of the Prisons Act” authorising  
‘tuck treatment.  
  
Relcyrce, 19. Section 59 of the Indian Penal Code, which lst che  
Rangel” punishments to which offenders are Tiable, has now two  
sorte Heme reading  
  
Sin “Secondly Imprisonment for lite;  
  
  
  
Page 11:  
Fourthly—Imprisonment, which is of two des  
criptions, naely  
  
1) Rigorous, that ig with hard labour;  
  
2) Simpie.”  
Juxtaposed in. this fashion, the to itoms immediately  
five ‘rise to the question to"which deseripton, rigorous  
Etsimple, Goes imprisontsen: or life welong or is it ut a  
Ginerent thied desenption. “The question has not been  
faised in a direct form Before the Supreme Court. In one  
fase, while setting aside an acquittal on a charge  
‘bp the High Court of Madhya Pradesh, the Supreme Court  
Seeided—  
  
“We consider that the ends of justice would be met  
€ we sentence the accused t0 rigorous imprisonment  
for't  
  
In another ease? where the High Court of Bombay had  
  
Feniznoed the aceused to rigarous imprisonment jor Ue,  
  
the Supreme Court, distissing his appeal sald:—  
  
‘the conviction of the accused under section 302  
of the indian Penal Code and the sentence of impri-  
Sonment for tie passed om him by the High Court ere  
connect”  
  
Tp a third case" from Punjab, the Supreme Court converted  
the sentence of death into one of omprisornent for fe  
[But the question befare us has not beet. considered by the  
Supreme Court in any ceported case  
  
20, It appears to have beer raised for the frst time in Kerala High  
Kerala soon after the amendment of the Cade came into Gru rem.  
force. In Mathammal Saraswathi ¥. The Stcte, the Kerala  
  
High Court observed:  
  
“In passing the sentence for the three murders, the  
lower court ‘has not chosen to say whether” the  
Imprisonment the appellant ig to undergo should be  
siteple or gorcus.. Section $02. ag amended by the  
‘Schedule to the Code of Criminal Procedure (Arcend=  
femt) Act 1058 (Central Act XXVT of 158) only states  
Rar the slternative punishment for, murder shell be  
Smprisonment for ite", and not rigorous tmpriconment  
for Ife or simple imprisonment fer life ‘cet  
passing the sentence has, however, to keep in view the  
provisions of section 60 0: the Penal Code and choose  
‘ne or the other form in view of ell the eiscumstarces  
\* ah tn  
  
en a re Se Makar, AER. As 8.105  
yr Dew Tr Sta of Pat, ALR. 1063 S.C. 61.62 (prasagh  
  
ATR. 1997 Kerle 03  
  
  
  
Page 12:  
0  
  
siongdtie Had fed fo ste wheter genes  
Eee sade ey hi wae ghee of eagle ie  
{Rh tue the Inpeor Gensel Sf Bios Eau  
fur decom arto what dessin of Nopeeoneat  
Se pce laa shee we  
  
ain Wy aang “ht ekg  
fore inte cave aba be Sople smarty sed  
ees”  
  
i Rom wen in Ind, et ote pre  
aula Sot. a oi ere  
Srecnas SEE near eae  
Secs ode SLMS ee eae  
2 gee ae ise asses hae Sa  
Poe a  
SESS eda See cater aime  
iets eae he eee he  
Tela dec ar aaah te  
Sh Te a a a  
STL Tags aman Pdi  
Hayat tron amescan Ok wes  
SE Greets at, CaS he  
  
2, Dissenting ftom the view taken by the Kerala High,  
  
Court, the Orisse High Court has held? that “imprisonment  
  
Yor lie” means “rigorous imprisonment for life’. Tbe  
main grounds cn which this decision lg baaod are—  
  
(© the proposition Iai down bythe Piey Couse  
cit ha teboted by she Supreme Court tal « pee  
son eenvecced to trangportaor could be  
  
person eesteneed to rigocous tamprisomnent;  
  
(8) the dlcuaont of the question inthe Report af  
the Sorat Commitee wtih contiaered the Code e? Cre  
‘Bika? Procedure (Amendment) Bil of 158. particu:  
By the cbeetvaon that subateution of simprisgne  
eke" ee ctrangprtation” skesld not” change the  
ature of the puniment;  
  
(i) the ae of the expression “slgorous imprison.  
amen tH ofthe Socom  
esi  
  
(iv) he nomappleabiiny. ef section OD to the  
sentence af imprisonment 1" fie.  
  
ced asa  
  
Wohin ws The Sti AI. 2964, On  
2 Nir Lale, perry 78 Inds App 15 ASR. 145 Pt  
SOR. Oude The Sts, AIR. W961 S.C 02  
  
sae panache  
  
  
  
Page 13:  
a  
  
None of these grounds, however, appears to us to lean  
detinitely tothe conclusion that lmphsonment for life rmust  
berrigorous  
  
3B, Adverting now to the questions posed in-paragra  
1 Sin apr ta ey san bearer Rk  
any vdogiee of eertanty or assurance. "We are incline  
  
fhinke that as She law’ oands at peeoert® wemenees of  
Imprisonment for hfe cannot" be “equated “either with  
Ffoross imprisonment of with ingle dmprsonment tor  
life and the law does not uthorse the Courts whieh find  
At nocestary to pass that sentence, to direct that shell be  
tne oF the otbet. ‘There is alto ho Aitet provision in the  
law which enables the executive authorities fo relate he  
tangy wie sch pnt are ob care ca Tha  
Sultable Tepllation. Ye seme  
  
24, As regards the direction in which the law should be  
clarified, there are the two. alternatives Indicated respec:  
fively by the judgments of the Kerala and’ Orisa High  
{Courts discussed above,” Accorsing to. the. Rerala High  
Gourt, imprisonment for lifelike tmprisonment for a spe  
fitted period, may be of either description and the ‘ourt  
warding the sentence should have the lacretion-and the  
utyto direct in the sentence that such imprisonment  
Shalt be wholly rigorous, or wholly simple, or partly rigor  
ous and partly simple, as provided in section 60 of  
Code, "it the: Orissa view ts to preva, the carileatory  
egisiatin wil take dhe, simple form’ of stating sn he  
appropriate place that “imprisonment for life shale  
rigorous." A thitd possible course may be to clarify tha  
fa kind of punihment, this i tne from vigorous of  
Simple imprisonment, and to make provision inthe prisons  
‘Retr TsO the Prisoners Act, 1900," or elsewhere for the  
‘mainer th which the life seitence fs fo be earied out.  
  
2, In favour of the fist alternative it can be sald that  
caso oseadoualiy aise where'a capital Glenee tay best  
Somamited but the circumstances are such that the offender  
dos not tert the sntonce of rigorous imprisotment for  
{le' er inpreonment with hard Tsbours and tha the court  
Laying tne ease ehould ave the power to ive "a direction  
Unde section 60 of the Penal €Ode that, Having regard to  
Wore circumstances, the imprisonment should’ te simple  
hd ot rigorous The ease of Methammal Sarancath (op.  
Sh) ‘whlch came up belore the Kerala High Court. Gebers  
Siplegrapt wontan' who found ie in ber musband's howe  
fofuitatle duclled tout ah end to heveef and alsa het  
Bree dildren bt a fate would have it suerceded ony in  
Feperd tote latte) war undoubtedly of thie character,  
Bie Then such hang case are rare, and when they do occur  
they ean be nly an usa resend  
wei Sy the Govertinent exercising the powers of comme  
[etn End emision vested’ in. them” Becton “SS of the  
  
Urcrainy  
  
Casein  
siete  
  
at her.  
meee  
‘aie  
  
  
Page 14:  
2  
  
Penal Code would seem to be very relevant and specially  
designed for this purpose. ad nd se  
  
26. It hes to be borme in mind that, as snalysed in para:  
raph 6 above, the offences for which the sentente of  
{iprsonment fore is rescebed in the Fenal Code are  
  
offence, the court has alveady the pawer to impose simple  
fr vgorour imprisonment for a sulabe period and would  
ottnee fo impose a ertence of mprisnment for Me  
  
Toe tee tn sunchment of kaprsonaent fo  
: ce inw ment of imprisonient for  
Iie should be declared ic'nw elther rigorous oF smile and  
thatthe court shobld have the diveetion to dines im. the  
Sentence which kind it would be  
  
21. The adoption of the third altecnative, namely. that  
of keeping the sentence of Imprisenment for Ie a distinct  
punishment, would involve the working out of details as  
fo the manner in which te sentence nto be cazed\_ out  
  
en conviels were transported overseas to tue Andamans,  
the conditions of thelr incarceration were totally different  
from the conditions attaching to rigorous or simple impri-  
sonment undergone in the Tadian Jail, and were regulated  
bby tales and eters applicable only to the Andamans penal  
Peslement. In regard to Ite smprisonment. the questions  
Srould naturally arise whether "it showd "be. milder or  
Sere tgreus impreonment, wheter le conv  
Should be kept in s separate calesory and, if s0, how. We  
‘do not think there is anvibing to be gained by taising, and  
{hen attempting to solve, these preblems  
  
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 shal be rigorous". As indicat-  
fed by the transitional provisions made In section 53A and  
‘he statement in the Joint Committee's Report. the inten  
tion ‘of Parliament ‘was not to make any material change  
in the precevisting position which was to treat persons  
Sentenced fo traneporlation for life az if they ‘hed been  
Sentenced t0 rigorous Imprisonment We recommend that,  
ffter section S84 of the Code. the following section be  
Inserted:  
  
  
Page 15:  
Fr  
0, Imprisonment for life shall be rigorous.”  
  
Bt fare  
be ti  
29, Finally, while our present proporal is limited to the ‘"™  
immediate problem of resdlving the doubts that have arisen  
  
fis repards the nature of thle puniohment, we have noted  
  
for future consideration the question whether ft is at all  
Recesiary even in regard to capital offences and whether  
  
HT should be retained without modification in regard to the  
‘numerous ocher offences now $0 punishable. It strikes one  
  
fs exeremely anomalous that an affence like sedition should  
  
te iad with either import fore or wth  
  
Pgdcous or simple imprisonment which may extend 10  
  
‘ikee gears, but not more. ‘These questions wil Have 1  
  
‘be conidered when the indian Penal Code is taken up for  
  
revision.  
  
4. K. V. K, Sundaram—Chairman,  
  
2 8 § Dalat  
  
ESN tour, Memiers  
  
Sire Anna Cosndh,  
5.8, Bolakcishnan, “°° 3  
  
P.M. BAKSHI,  
  
Joint Secretary and  
Legislative Counsel.  
  
New Deu,  
‘The 41h July, 198  
  
ONGHND TSW Lev Berie—ro0.