

Is life imprisonment a violation of Human Rights

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Abstract— Globally life imprisonment has been considered as the terminal and conclusive penalty, in most of the countries for the extreme violations and serious crimes. Thus since the last few decades this long-term conviction has been increasing throughout the world, it has attracted much of the attention towards a principal debate from human rights point of view that whether as an ultimate penalty is life imprisonment acceptable or is merely an act of violation towards human rights. In this article, the aim is to evaluate the life imprisonment complexity against the human rights standards and how it has been considered as a substitute for death penalty. Apart from this it also talks about Article 3 (universal Declaration of Human Rights) and if life imprisonment without possibility of parole violates convention or not. Further analyzing human rights perspective, the article revisits the debate to conclude if life imprisonment is justifiable retribution by severely examining it under International criminal law.

Keywords: *life imprisonment, conclusive penalty, human rights, International criminal law*

I. INTRODUCTION

Life imprisonment as the only deterrent for violent offences has been a long-standing tradition which dates back to 1970s and 1980s when harsh and long-term penalties were seen as an appropriate retributive solution to rising crime rates in the US [1]. Eventually within a few years this tough-on-crime movement spread across the Anglo-Saxon world, finally finding hold in Europe. In criminological research and national crime figures, there is little agreement about what constitutes a long-term jail sentence [2]; meanings vary from five years to life imprisonment without the possibility of parole, the latter clearly indicating circumstances where inmates are held in prison until they die. While offences and punishments were originally regarded as inherently state prerogatives, implying that it was up to states to decide what were the worst crimes and how to prosecute their criminals, constituting the essence of their "right to punish"; International human rights law (IHRL) saw that as an unacceptable statement that needed to be revised, and it stood up to determine that states are not able to prosecute criminals in whatever manner they see fit, and that there would be certain restrictions. The current contribution builds on this foundation by addressing the punishment of life imprisonment, with a particular emphasis

on forms of life imprisonment in which the possibility of parole is missing or, if available, is not materially open to inmates, again describing this as a sentence without the hope of any escape, even fairly – let alone completely [3].

As of current scenario, a threefold situation contributes to the topicality and importance of such an issue. First, it is claimed that the universal elimination of the death penalty, which is by far the most extreme method of execution, has resulted in a resurgence of life imprisonment [3]. Second, many people have begun to contend that limiting human rights such as liberty for the rest of one's life poses a series of issues that aren't inherently less serious than those posed by the death penalty [4]. Third, considering the prevalence and seriousness of the punishment, there is little or no research devoted to its human-rights aspect. Therefore, the idea of life imprisonment without the possibility of parole may be detrimental and could have inhumane or negative characteristics and thus it is critical to look at the different circumstances that affect this case, as well as what the basic guidelines are for life imprisonment. Since the punishment of life sentence differs by jurisdiction from state to state, it can be considered a complicated concept and hence assessing its inhumane and disgusting essence without looking at each case separately can be challenging [5].

II. LIFE IMPRISONMENT AND HUMAN RIGHTS

Imprisonment completely isolates the person from society and gives him/ her time to reconsider his / her actions and faults and think about methods to improve his/ her actions. The punishments like life imprisonment is only associated with cases in which there is no hope of improvement, the personalities with penalty of life imprisonment is considered as a high end danger for the wellbeing of society and its peace. Mostly the people under this category are mass murderers, terrorists and psychopath killers. Even if someone is sinister we cannot prohibit the person from his/ her access to human rights. Life imprisonment without chances of mercy of parole is considerably against the human right code of conduct.

A. Human dignity and self-respect of accused

Human dignity gets harmed when we treat criminals as a weapon of crime or a puppet of sinisterity. We should not detriment human rights over social justice because human

himself makes the society and society makes the rules and law. No doubt we have to respect the law but not by sacrificing humanity. Even the worst criminal has a sense of self respect and dignity [23] Life imprisonment or long term imprisonment is a straight violation of right to freedom. Prohibition of one free will to move around is a direct violation of human rights [19].

Life imprisonment is a cruel and inhumane way to threat human dignity. There is not a standard proportion to decide the sinisterity of the crime and years to be in imprisonment [19] By isolating someone completely can harm an individual's mental health which in turn make the offender more menacing than before [22]. The liberty loss of the criminal until his / her death is really inappropriate and inhumane.

Life sentences are the ultimate decision that the offender is beyond any comprehension of wellbeing for the society and a total disgrace. It is necessary to consider and quantify the crime by the judiciaries all over the world to provide a legal certainty so that the offender has a second chance to change his/ her life and have a fresh start with a new view towards the world.

B. Rehabilitation a necessity or myth

Prisoners must have a hope of rehabilitation and re-associate them with the society [20] Once Levi put a statement that some judges believed that the possibility of parole disrupts the fact that life imprisonment breaks the right of rehabilitation

As in the case the prisoner has a chance to shorten years of imprisonment as a reward to his/ her changed behavior gives a hope to spend time peacefully during his imprisonment and after it. If we take away their hope of freedom their dignity, desires and reason to be alive dies too. On the other hand, if the accused may see parole as the light of hope the debt he has on society can never be fulfilled. In short life imprisonment is such a bad way of punishment which demands to be changed.

III. LIFE IMPRISONMENT

Possible violation of article 3(Universal declaration of Human Rights) and article 5(Universal declaration of Human Rights)? It is said that we have two eyes to see two sides of things and the major question of life imprisonment is no exception to this. Ever since death penalty is forbidden by the law in many countries across the world, life imprisonment and its plausible inhumane and demeaning nature is becoming increasingly conventional. One side is speaking for the miscreants right; with the point of view of supporting Article 3 of European Convention on human rights and Article 5 United Nations Convention on human rights. While, the contradict side supports the public right and believes that public's right should be protected by the law from possible menace by an offender. So, it can be stated that there is a constant battle between group rights and individual's rights. More specifically, it is a matter of research and it will always be whether life imprisonment without the possibility of parole is regarded as demeaning under the provisions of article 3 and 5.

Article 3 of the European convention of the human rights
Article 5 of the United Nations convention on human rights

The European Convention on human rights entered into force on 3rd November, 1953. While, the United Nations convention on human rights came into force on 26th June, 1987. These articles are seen as provision for prohibition of torture means, any act that intentionally cause any severe suffering whether physical or mental is cruel and considered as violation of human right. Over time the International standards for punishment have been developed, so it has become very important to deal with several cases concerning with the life imprisonment and human rights provisions. Serious crimes are nowadays commonplace, increasing pressure on authorities to impose retribution, while, human rights ensure that authorities do not overemphasize the punishment. There is a constant argument that life imprisonment can only be justified if it's with the possibility of parole as it isolates the offender from normal life and the community.

Life imprisonment without any possibility of release is considered as inhuman and degrading under article 3(the European convention of the human rights) and 5(the united nations convention on Human rights) as offenders should have a chance to prove their eligibility to be released back in the society without raising any harm to others. Cases closing the doors of any possible release are still considered as demeaning and violate the human rights

A proper need of review procedure is very important because without any legitimate reason to keep the offender in prison and without involving sufficient review procedure is considered as violation [7]. On the basis of the offender's positive progress, Article 3(the European convention of the human rights) interpreted a possibility for release with a proper review procedure. In case of positive developments in defender's behavior it would be considered as Inexcusable to continue his imprisonment.

Human dignity is considered to be one of the core values behind article 3(the European convention on Human rights) and 5(the United Nations convention on Human rights). Basic need for every human being is to develop social relations, his personality, self- improvement and other components. While, life imprisonment removes all the possibilities of personal development therefore, it does not abide by the principle of human dignity.

It can be stated that life imprisonment is problematic without any possibility of parole as living without any hope of life is considered as mental torture(6). But release should be in those cases only when there is a possibility that Offender is not going to reoffend considering in mind it is also a way to keep the public safe.

IV. LIFE IMPRISONMENT FOR JUVENILE

There is a constant argument in society whether life imprisonment is justifiable or not and adding to this, Life imprisonment for juvenile raised more questions to this debate. Countries such as Antigua, Cuba, Nigeria, Israel, Barbuda, Dominica and the Grenadines, the Solomon Islands, Sri Lanka, Tanzania, and the United States allow juveniles to be imprisoned for life with no chance of parole. About 2500 young offenders are serving life imprisonment without the possibility of parole across the globe. In the USA there are quite over twelve thousand offenders serving incarceration for a crime they committed against the law below the age of eighteen.

The majority of people believe it is in violation of the constitution's ban on "cruel and unusual punishment." The practice of transferring juveniles into adult court also draws major attention and criticism because the treatment was done as if the minors were adults and is considered to be unjustifiable [9].

Considering the major points which are put forward against life imprisonment for juveniles. Children are different: Most countries prohibit the use of alcohol and cigarettes under the age of 18 as they recognize the difference between them and adults. On the other hand, the same countries forget to imply this in case of punishment. The personality of children is not fixed; they lack the sense of responsibilities and can get highly influenced by anyone and anything especially negativity [24]. The effect of the same punishment has a different impact on adults and juveniles, as the latter exactly don't know the severity and consequences of their actions.

One of the major reasons of the crime are child abuse and poverty. Out of all the cases, about 30-35 percent cases are the consequences of poverty or child abuse.

Young offenders who committed crimes such as homicide are usually sentenced to adult imprisonment instead of juveniles so, in those cases they have a higher chance to be influenced by other adult offenders and instead of shaping themselves in a right way they can go to the negative side and in fact can be at a risk of victimization [13]. Children are capable of growth and changes and adult sentences do not give them a chance to change themselves.

This does not mean they are nor accountable for their actions; a punishment is necessary depending on the severity of the crime and the cause which lead to the cause of it.

V. LIFE IMPRISONMENT UNDER INTERNATIONAL CRIMINAL LAW

Life imprisonment is, predictably, the permissible punishment in International criminal law, where the death sentence has been largely eliminated around the world due to the role of human rights civil law. It is important to note that advocates of International criminal law are often blind to the interests of criminals because of a deep desire to defend victims' human rights by investigating horrible criminal acts such as genocide, war crimes, and human rights abuses [14]. As a result of this one-sided regard for human rights, the goal of promoting and adhering to uniformly relevant regulations becomes impractical. Hence, International criminal jurisdictions should promote the interests of all victims and criminals, particularly life captives, in accordance with human rights values and standards [15]. In the case of life imprisonment, universal human rights conventions stipulate that it should be stopped except in the most serious circumstances as life imprisonment is undoubtedly a severe and, to certain degree, excessively restrictive penalty.

As seen through various human rights frameworks, the enforcement of life imprisonment poses critical questions and it is because all people, including the most violent killers, have the right to have their basic civil rights protected [16]. According to the human rights system, any criminal, including the ones who have been sentenced with the most egregious crimes, should have an opportunity to be rehabilitated and to live up to the law. As a result,

punishments must have both a punitive and a reformative function in order for convicted individuals to reintegrate into society. As the right to dignity requires the right to recovery, therefore refusal to right to rehabilitation threatens the right to dignity of an individual and is hence considered as inhuman and degrading [17] further violating all of the fundamental human rights enshrined in International law on human rights. Such judgment must then be checked at periodic intervals again after a fixed timeframe and must proceed with early release by an unbiased and neutral judicial authority, as pardon of convicts by the executive or president is not necessary alone because of lacking procedural justice [16]. Thus this calls for the establishment of a specific revision process to ensure that the inmates who are condemned to life in jail to be released early. That is why it is obvious that every criminal body, including International tribunals and tribunals must critically examine and comply with the aforementioned approach of human rights which reflects a life imprisonment rehabilitation approach in accordance with International standards of human rights and judicial decisions and impose such serious sentences as life imprisonment under International criminal law.

An unbelievable milestone in International law's monumental growth and, more specifically, in International criminal law, is the implementation of the Rome Statute of the International Criminal Court (ICC). This Statute is a foundation for a relentless and appropriate struggle to achieve the goals of the UDHR and promote universal respect for human rights and fundamental freedoms. To address concerns over life imprisonment, Article 110(3) of the Statute requires the ICC to re-examine the penalty after two-thirds of the sentence, or 25 years in the case of life imprisonment, to determine if it can be reduced [18]. It's worth noting that, in addition to other human rights concerns, Articles 21(1) and (3) of the Statute promise that the Court can take rehabilitation into account. These rules enable the ICC to apply the Statute and other sources of legislation in accordance with International human rights standards. As a result, the Rome Statute tries to strike a balance between the needs of the perpetrator, the victims, and society as a whole.

Finally, the implementation of such a human rights approach in imposing sentences, including life imprisonment under International Criminal Law, is continuously likely to see the feasibility of promoting and developing the protection of all basic human rights of all prisoners, including those awaiting hearings in International criminal tribunals and courts in the immediate future.

VI. IS LIFE IMPRISONMENT JUSTIFIABLE: A SURVEY ANALYSIS

This survey study is focused on a set of questions that were asked to approximately 200 respondents to evaluate how they perceive life imprisonment as a penalty, whether it is warranted or not, and what offences justify such a harsh punishment.

Following is the graphical description of the set of questions that were posed, along with the percentage representation of the people's opinions.

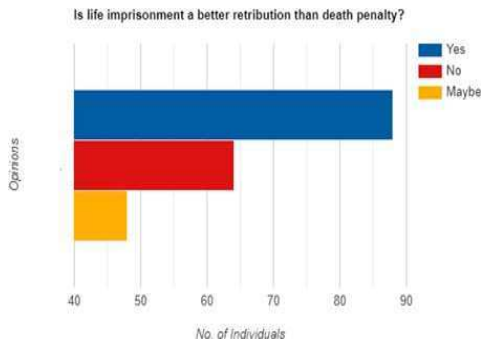


Fig. No 1

Out of 200 people who were asked this question, 88 voted yes, 64 voted no, and 48 opted for maybe.

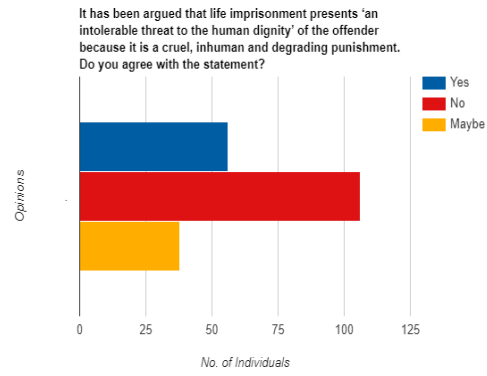


Fig. No3

Out of 200 people who were asked this question, 56 voted yes, 106 voted no, and 38 opted for maybe.

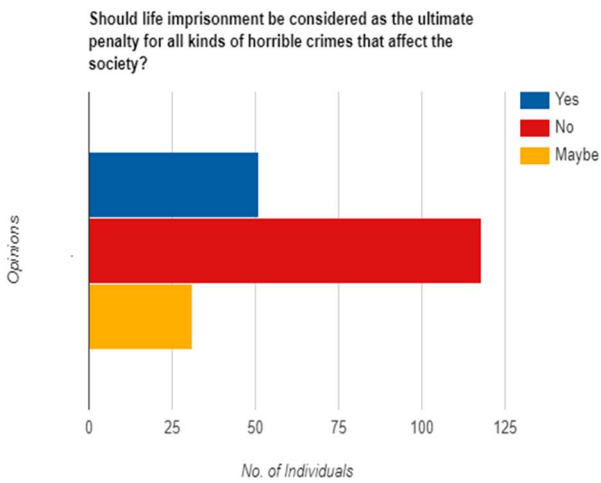


Fig. No 2

Out of 200 people who were asked this question, 51 voted yes, 118 voted no, and 31 opted for maybe.

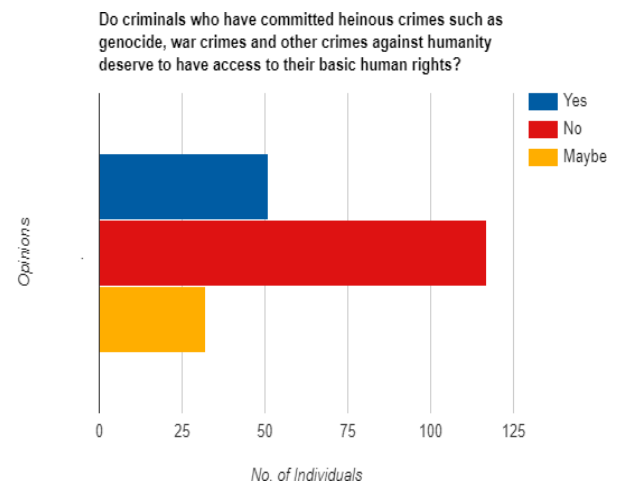


Fig. No4

Out of 200 people who were asked this question, 51 voted yes, 117 voted no, and 32 opted for maybe.

Life Imprisonment without the possibility of parole (especially for those who are under 18) should be considered as inhuman?

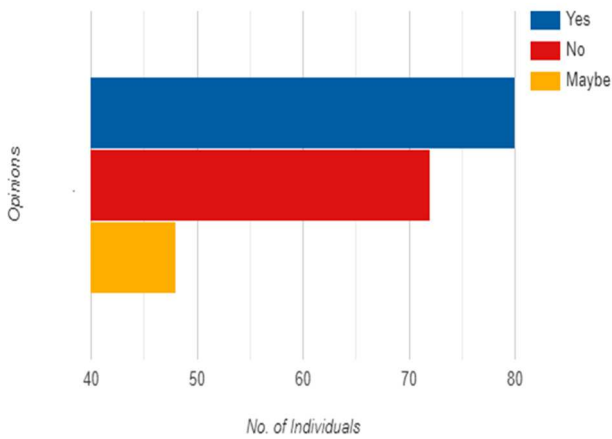


Fig. No 5

Out of 200 people who were asked this question, 80 voted yes, 72 voted no, and 48 opted for maybe.

Life imprisonment denies the prisoner any hope of rehabilitation and reintegration into society. Do you think that the sentenced prisoners have a right to get an opportunity to rehabilitate themselves and re-establish th...

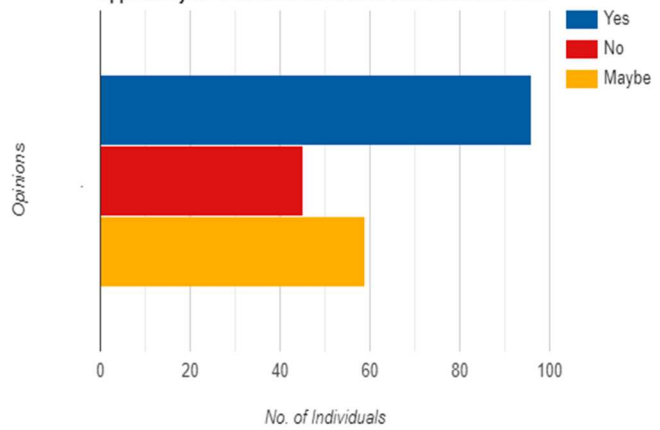


Fig. No7

Out of 200 people who were asked this question, 96 voted yes, 45 voted no, and 59 opted for maybe

A more focused and cautious human rights approach should be adopted by international criminal tribunals and courts for justifications of life imprisonment under international criminal law. Do you agree with the statement?

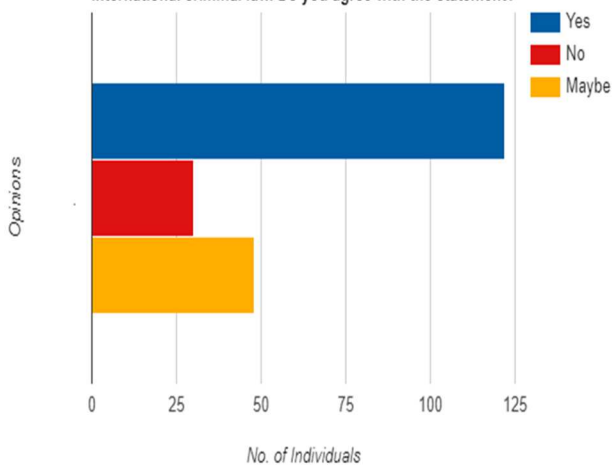


Fig. No 6

Out of 200 people who were asked this question, 122 voted yes, 30 voted no, and 48 opted for maybe.

Considering life imprisonment as a violation of human rights, do you think it is justified to prioritize human rights of the prisoners by eradicating life imprisonment completely and neglecting the rights of the victim?

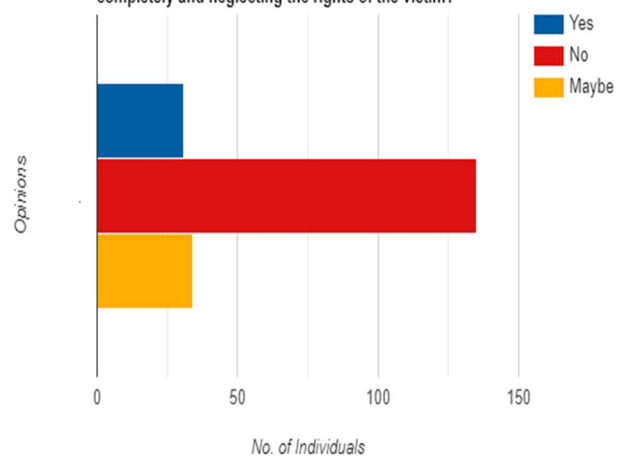


Fig. No 8

Out of 200 people who were asked this question, 31 voted yes, 135 voted no, and 34 opted for maybe.

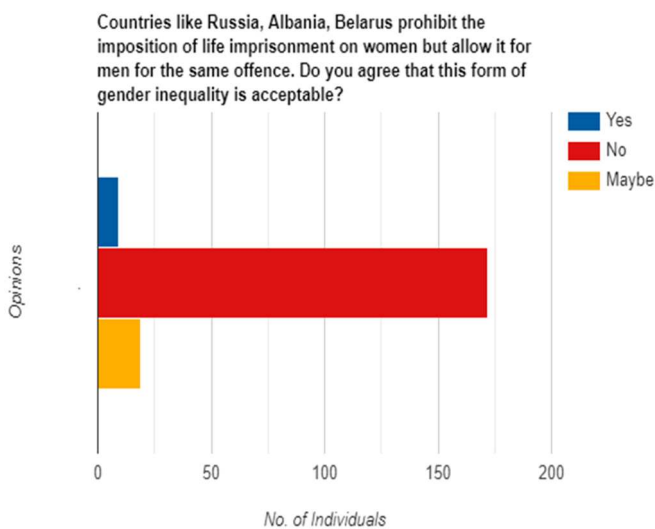


Fig. No 9

Out of 200 people who were asked this question, 9 voted yes, 172 voted no, and 19 opted for maybe.

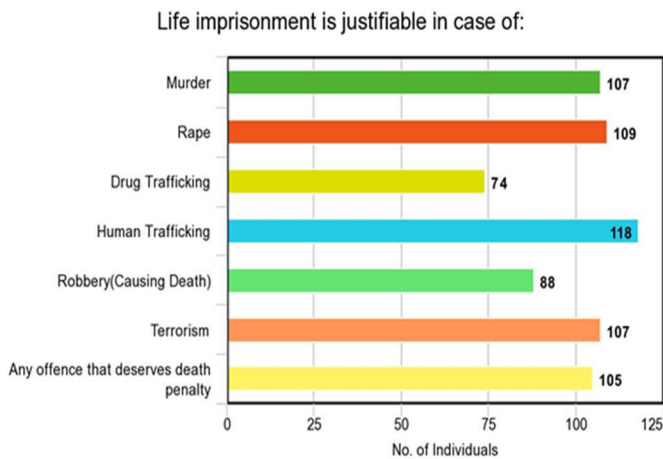


Fig. No 10

The graph above depicts 200 different perceptions on the crimes that deserve life imprisonment as a penalty, with human trafficking receiving the most votes, followed by rape, and then murder, and terrorism, while robbery resulting in death was deemed the least serious of the offences that could lead in life imprisonment as retribution. As can be seen from the results of the study, we received modest responses. When it comes to the controversies over life sentences, people have a wide range of opinions. Some argue that anyone will be redeemed, and that life incarceration excludes all chance of change and is therefore inhumane, whilst others claim that the character of a defender is unlikely to change, and thus human rights should be reserved for others who behave as humans. Also, we received a mediocre response, namely that life imprisonment is perfectly appropriate along with the chance of parole.

For the time being, we have come to the conclusion, based on the outcome of our survey, that views on life

imprisonment will continue to be a subject of debate in the near future, with new legislation emerging and changing the rules now and then

VII. CONCLUSION

Providing life a prisoner with a possibility of parole is not only fair, but also compatible with their intrinsic humanity, which is unaffected even by the most egregious offences. The suggested theoretical framework to life imprisonment without the possibility of parole under International human rights legislation provides for the recognition of certain similar characteristics and discrepancies within the major International instruments aimed at the defence of human rights. The aforementioned arguments for life sentences under International humanitarian law seem to be critical for International criminal tribunals and courts to take a more oriented and careful human rights policy. This is because, aside from the tradition of inflicting and mitigating circumstances, these courts and tribunals have rendered no heed to the human rights-based arguments for life imprisonment. Recent judicial precedent suggests that the present state of affairs jeopardizes human-rights negotiations, and that the lack of annual evaluations results in unnecessarily lengthy sentences. Also, there has been a lengthy discussion on whether life imprisonment without the possibility of parole is the most serious kind of punishment that can be enforced on anyone under the age of 18. The sole solution to this debate is that the punishment should be equal to the severity of the offence and the risk that the criminal poses. Aside from that it has been concluded that life imprisonment can breach Article 3 if it possesses certain attributes or ignores certain vital legal authority conducts. However, since the European Court of Human Rights has not established any official uniform standards, the specifications for specified follow can be difficult. It is clear that a concrete and formal life sentence with no chance of parole is deemed a violation of Article 3. As a result, the only criterion for incarceration is that it does not violate Article 3 which prohibits cruel or degrading treatment. Overall, it is past time for us to reconsider our attitudes about long-term incarceration. This is critical, since long-term prisoners make up a vast and increasing percentage of prisons around the world, and protecting their basic human rights with a correctional facility that offers them a chance to be released is paramount.

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