

## PAROLE-THE REFORMATIVE INSTRUMENT OF PUNISHMENT IN PRISONISATION

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### Abstract

Parole is a social control weapon to the implementation of the reformatory or the rehabilitative measures, through which the "humanity" aspect; even towards the criminals is reflected. Prisonisation symbolizes a system of punishment and also a sort of institutional placement of undertrials and suspects during the period of trial. In order to deal with the criminals the prisons are established; in which the aspect, scope and ambit of "punishment" proves or can be stated as one of the pivotal instrument or weapon or machinery to treat the criminals. The parole system in the Indian Prison Administration is an agency to transform our prisons into the rehabilitative institutions wherein the prisoners are treated humanely and wherein one's personality is nurtured and is trained to transform oneself from a criminal into a responsible citizen of our country. Parole is an integral part of the correctional process. It is a kind of consideration granted to the prisoners to help them to come back into the mainstream of life. It is nothing but an instrument of social rehabilitation of the prisoner. The Government of India is legislating as well as trying to execute further reforms in the Parole System for the upliftment of humanity amongst the prisoners in order to prove it to be strong weapon of rehabilitation.

**Keywords:** *Parole, Prisonisation, Rehabilitation, Welfarism Weapon, Prisoners.*

### 1. Introduction

"Those of us who have had the occasion to inspect a jail where executions are carried out have first hand knowledge of the agony and horror that a condemned prisoner undergoes everyday. The very terminology used to identify such prisoners, death-row inmates, or condemned prisoners, with their even more explicit translations in the vernacular – tend to remind them of their plight every moment of the day. In addition to the solitary and lack of privacy with respect to even the daily ablutions, the rattle on the cell door heralding the arrival of the jailor with the prospect as the harbinger of bad news, a condemned lives a life of uncertainty and defeat. In one particular prison, the horror was exacerbated as the gallows could be seen over the wall from the condemned cells<sup>1</sup>. The effect on the prisoner on seeing this menacing structure each morning during their daily exercise in the courtyard, can well be imagined." Parole is a social control weapon to the implementation of the reformatory or the rehabilitative measures, through which the "humanity" aspect; even

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<sup>1</sup> . D. Sharma – Police and Criminal Justice Administration in India (1985) p.145

towards the criminals is reflected . It is a welfare mechanism to the prisoners that even in the midst of the purview of punishments and its sufferings , it helps in maintaining and implementing the minimal aspects of *fraternity , equality, liberty , justice and democracy* <sup>2</sup> ; within the ambit of the Indian Jails or the Indian Prisons ; ( in our country India . ) There cannot be a society without crimes and criminals . Man by nature is a fighting animal , hence to think of a crimeless society is a myth . Truly speaking , there is no society without the problem of crime and criminals. Ever since the dawn of human civilization crime has been a baffling problem. There is hardly any society which is not beset with the problem of crime . “A society composed of persons with angelic qualities would not be free from violation of the norms of the society.”<sup>3</sup> In fact , crime is a dynamic concept changing with the social transformation . It is argu that , crime is a necessary feature of every society as it is a fundamental condition of social organization. Different groups have variable and often incompatible interest in the society which give rise to conflicts eventually resulting in the incidence of crime . The concept of crime is essentially concerned with the social order . It is well known that man’s interests are best protected as a member of the community . Everyone owes certain duties to his fellow - men and at the same time has certain rights and privileges which he expects others to ensure for him . This sense of mutual respect and trust for the rights of others regulates the conduct of the members of society inter se . Although most people believe in “ live and let live ” principle yet there are a few who, for some reason or the other , deviate from this normal behavioural pattern and associate themselves with anti social elements . This obviously imposes an obligation on the state to maintain the peace , security and normalcy in the society. The arduous task of protecting the law abiding citizens and punishing the law breakers vests with the state which performs it through the instrumentality of law. Laws are the rules of actions regulating the conduct of individuals in society.<sup>4</sup> The conducts which are made permissible under the law are treated as lawful . The wrongdoer committing crime is punished for his guilt under the “Law of the Land . ”

Thus it can be stated that, *The Institution of Prison is indispensable for every country (India)* in order to punish, the convicted criminals<sup>5</sup> and maintain law and order, peace and security and a balanced ambience in a country.

*Prisonisation* symbolizes a system of punishment and also a sort of institutional placement of undertrials and suspects during the period of trial<sup>6</sup>

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<sup>2</sup> Preamble of the Constitution of India.

<sup>3</sup> Emile Durkheim in his treatise “ Crime as a Normal Phenomenon.”

<sup>4</sup> Salmond’s definition of Law.

<sup>5</sup> In a precise and concise context.

<sup>6</sup> P. D. Sharma – Police and Criminal Justice Administration in India (1985) p.145

. Since there cannot be a society without crime and criminals , the institution of prison is indispensable for every country . According to Oxford English Dictionary , the term “ Prison ” means a building used to confine criminals or people awaiting trial ; and the term “ Prisoner ” means a person kept in prison or a person captured and kept confined ; respectively . Prisoner is generally used to imply the criminals in context to the Prison System of a country (India) . Again according to Oxford English Dictionary , the term “ Criminal ” means a person who has committed a crime . *Howard Becker* , an American Sociologist<sup>7</sup> labeled the *criminals / the law breakers* as “ outsiders . ” Howard Becker (1963) developed his *theory of Labelling ( also known as Social Reaction Theory )* on the assumption that people are likely to engage in rule - breaking behavior as essentially different from the members of rule – making or rule - abiding society . The law breakers see themselves at odds with those who are law - abiding . Becker labels the law breakers as “ outsiders ” and holds the view that they accept the label attached to them and they begin to view themselves as different from “ mainstream ” of the society . Thus , similarly *Frank Tannenbaum and Edwin Lemert* has also stated some aspects of the “ deviance ” by the deviants i.e. the criminals .

In order to deal with the criminals the *prisons* are established ; in which the aspect , scope and ambit of “ *punishment* ” proves or can be stated as one of the pivotal instrument or weapon or machinery to treat the criminals . According to Oxford English Dictionary , the term punishment means imposing of penalty on someone for an offence . Thus , it can be regarded that, the concepts of criminals ( outsiders / deviants )<sup>8</sup>, prison and punishment are very much interlinked and interdependent to one another in order to maintain and preserve a disciplined , peaceful , lawful and a just society .

To punish criminals is a recognized function of all civilized countries for centuries . But with the dynamism pattern of the society , the very approach of the penologists towards punishment has also undergone a radical change . The penologists today are concerned with the crucial problem , regarding the very “ *end of punishment* ” and its place in the penal policy . Though there are various different opinions regarding the aspects of punishments of the offenders from the traditional times to recent modernism , practically and broadly stating , there are four types of views that can be distinctly found to be in action or are prevalent . Modern penologists refer them as “ *the theories of punishment* . ” They are as follows -

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<sup>7</sup> The Labelling Theory and ( its perspective) – Propounder.

<sup>8</sup> As represented by different sociologists

The Deterrent Theory.

The Retributive Theory.

The Preventive Theory.

The Reformative or the Rehabilitative Theory.

Thus , the prison may serve to deter the offender or it may be used as a method of retribution or vengeance by making the life of the offender miserable and difficult . The isolated life in the prison and incapacity of inmates to repeat crime in the prison , fulfils preventive purpose of punishment . That apart , prison may also serve as an institution for the reformation and rehabilitation of the offenders.<sup>9</sup>

The attitude of society towards prisoners may vary according to the object of punishment and social reaction to crime in a given community . If the prisons are meant for retribution or deterrence , the condition inside them shall be punitive in nature inflicting greater pain and suffering and imposing severe restrictions on inmates or prisoners . On the other hand , if the prison is used as an institution to treat the criminal as a deviant , there would be lesser restrictions and control over him inside the institution . *However, the modern progressive view , regards crime as a social disease and favours treatment of offenders through non - penal methods such as probation , parole , open jail , etc .*<sup>10</sup>

As such , *Parole* has emerged as one of the most acceptable form of correctional device in modern penology . It has been universally recognized as one of the most appropriate methods of treatment of offenders for their reformation and rehabilitation in the normal society after the final release . Besides , it considerably aids in reducing over - crowding in prisons . One of the appropriate method for prisoners to be able to enter community and participate in constructive work is to release them on parole . Though there is always a danger for the society in respect to the ex-prisoners' behaviour and attitude ; parole is one such device which seeks to protect society and assist the ex - prisoner in re - adjusting himself to a normal free - life in the community . *Thus, parole has a dual purpose , namely , protecting society and at the same time bringing about the rehabilitation of the offender.*<sup>11</sup>

## **2. The Concept of Parole**

Historically , parole is a concept known to military law and denotes release of a prisoner of war on promise to return . These days parole has become an integral part of the Anglo - American criminal justice system , inter -

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<sup>9</sup> Criminology and Penology with Victimology- Prof .N. V. Paranjape.

<sup>10</sup> Ibid

<sup>11</sup> Supra Note 9

twined with evolution of changing attitudes of the society towards crime and criminals . Parole has resulted to be a pivotal part of the prison administration in the developed and the developing countries of the world . In case of parole , part of the sentence / imprisonment is served and it is then the convict is released on parole on condition of good behaviour and if he is found to have improved and has abstained from criminal conduct , he gets remission of the rest of the sentence and for sometime at least a part of the sentence.<sup>12</sup> Parole is based on the principle of individualization of treatment of offenders and include a programme of guidance and assistance to the delinquents i.e. the prisoners who are sentenced with imprisonment .

Parole is also known as a pre - mature release of offenders after a strict scrutiny of long term prisoners , under the rules laid down by various governments . Pre - mature release from prison is conditional subject to his behaving in society and accepting to live under the guidance and supervision of parole officer<sup>13</sup> . The conditional release from prison under parole may begin anytime after the inmate has completed at least one - third of the total term of his sentence but before his final discharge . Parole is an act of grace and it is not a matter of right . The Supreme Court in *Smt. Poonam Lata v. Wadhawan & others*<sup>14</sup>. It is stated that parole is a grant of partial liberty or lessening of restrictions to a convict prisoner , but release on parole does not in any way , change the status of the prisoner. It is a provisional release from confinement but is deemed to be a part of the imprisonment .<sup>15</sup> *Parole is the process in the prison administration which is necessarily intertwined with the aspect of imprisonment* . It seems the word “ Parole ” which means “ a term to designate conditional release granted in a penal institution ” in the encyclopaedia of the social sciences , is used in different senses in different *States of India* . The States of Uttar Pradesh , Madhya Pradesh , Punjab and Haryana have a legislation on this subject. A set of Parole Rules have been framed sometimes ago by the Crime Advisory Board on correctional services with a view to preserve a basic uniformity of approach in the country .<sup>16</sup>

### **2.1. Parole distinguished from Furlough**

It can be distinctly stated that parole and furlough are the parts of the penal and the prison system for humanizing prison administration but the two have different purposes . The distinctions are as follows -

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<sup>12</sup> Criminology and Penology – J.P.S. Sirohi

<sup>13</sup> Supra Note 12

<sup>14</sup> AIR 1987 SC 1383 .

<sup>15</sup> Supra Note 9

<sup>16</sup>Journal of Social Defence , 1972 p. 13

1. Parole is a matter of grace whereas furlough is a matter of right (although not an absolute right as it is allowed periodically) . Furlough is to be granted to the prisoner periodically irrespective of any particular reason merely to enable him to retain family and social ties and avoid ill - effects of continuous prison life . But , on the other hand it is not so in the parole system . Parole can be denied to the prisoner if the parole board consisting of the parole officers after supervising ( like the the prisoners' behaviour , attitude , etc. ) finds out that his release on parole would cause a threat to the security of the society . *For instance , Sanjay Dutt who has been found to be convicted in the Bombay Blast Case , has been sent to the prison for punishment and it is found that he has been granted “ furlough ” and it is not the parole .* Furlough is to be granted to every prisoner irrespective of any reasons or supervision , without even considering the fact that priorly inmate has already been released on parole for once<sup>17</sup>. But , for the sake of the security of the society , sometimes even furlough can be rejected on the rarest of the rare case<sup>18</sup>.

2. The period spent on furlough is treated as a period spent in the prison . But , it is not so in regard to parole . The period spent on parole is not counted as remission of sentence .(As decided in *State of Maharashtra and anr v. Suresh Pandurang Darvekar* .<sup>19</sup> )

### **3. Historical Background**

The “ Parole system ” in the prison administration evolved in association with the work of a number of individuals who headed the different prisons of the different places / countries of the world during the periods from 1840's to 1867. They include *Alexander Maconochie , Brockway Zebulon and Walter Crofton*<sup>20</sup> . Very initially the concept of parole in the prison administration was first introduced on the basis of the concept / process known as “ ticket of leave ” granted to the then prisoners as a mechanism of expressing the humanity emotions towards the so called *human beings - the prisoners* from the four walls of the prison or prison cells . The “ Parole system ” in the prison administration first originated in a plan worked out by *Alexander Maconochie* ( who was the Governor of the Norfolk Island Prison which is located in off the coast of Australia ) in the year *1840* . At the time when Alexander Maconochie was serving as the Governor of the Norfolk Island Prison the conditions in this penal colony was so bad especially for those who were serving life term imprisonment , thus , a prison structure was introduced whereby the prisoners who arrived

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<sup>17</sup> Bhikhabhai Devshi v. State of Gujarat, AIR 1987 Guj. 136.

<sup>18</sup> Supra Note 9

<sup>19</sup> AIR 2006 SC 247

<sup>20</sup> Website - [www.articlesalley.com](http://www.articlesalley.com) - History and Challenges of the Parole System.

in the jail were first put under strict imprisonment with strict surveillance, and then the prisoner was granted a ticket of leave which he earned through his good behaviour and work. This permitted him to enjoy a kind of conditional freedom under supervision. And as a result Alexander Maconochie is indeed regarded as the “Father of Parole”<sup>21</sup> Subsequently, *Walter Crofton* ( who was the Governor of the Irish Prison ) has introduced the parole system in the prison administration in the year 1854.

Furthermore, the parole system in the United States of America was introduced by *Brockway Zebulon* ( who ran the Elmira penitentiary in the New York ) in the year 1867. He introduced the parole system in the prison administration Of the United States in order to reduce the overcrowding in the prisons ( jails ) and at the same time used it as an instrument to rehabilitate prisoners by encouraging them to make their way out of the prison through their good behaviour.<sup>22</sup> Parole in its developed form was first adopted by New York State in the law of 1869 authorizing the Elmira Reformatory<sup>23</sup>. Thus, it can be stated that *Alexander Maconochie*, *Brockway Zebulon* and *Walter Crofton* were the pioneers in advocating the concept / the system of parole, in the prison administration. With the march of time, in the subsequent years the various other countries of the world like that of our very motherland *India*, has borrowed the concept of parole system in the jail / prison administration; from the parole system administered in the prisons of Ireland, England and United States of America; in order to shower the humanely - touch towards the prisoners who in reality experience the most depressing and horrified sufferings in the jails. ( Jails are considered to be one of the most mysterious section of the prison system.<sup>24</sup> )

#### **4. Development of Parole in the jurisprudential context**

The concept of parole has its birth root in *the Positivist School or the Analytical School of Jurisprudence* which confines to the study of law as it actually exists i.e. positus<sup>25</sup> The Positivist School of Jurisprudence opined that the people are free to choose their own conduct. While committing any crime, an offender always calculates his gain, his pleasure; at the cost of other's pain. So he must be *punished* on the basis of *the Utilitarian principle i.e. the greatest happiness of the greatest number of people in the society; and the maximum pleasure to be enjoyed and minimum pain to be suffered by the people*<sup>26</sup>. But the Positivist School argues that on the basis

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<sup>21</sup> Criminology and Penology – J.P.S. Sirohi.

<sup>22</sup> Barnes and Teeters, *New Horizons in Criminology*, 3<sup>rd</sup> Edn., pp.566-567.

<sup>23</sup> Supra Note 20

<sup>24</sup> Sutherland and Cressey, : *Principles of Criminology* - (6<sup>th</sup> edition) p. 568.

<sup>25</sup> Barnes and Teeters, *New Horizons Criminology*, 3<sup>rd</sup> Edn., 329.

<sup>26</sup> J.L.Gillin.: *Criminology and Penology* (3<sup>rd</sup> Edition) p. 339

of different circumstances an individual is forced to commit a crime . So he must get an opportunity to be rehabilitated . Thus , from this view ; the thought of the concept of “ parole ” has developed or on the other hand ; it can be stated that *the womb of the concept of “ parole ” is the rehabilitative or the reformatory aspect of punishment* . It provides a second chance to the prisoner to rehabilitate himself . The offender might have committed an offence , but it is not desirable or reasonable that he must always be labelled as an outsider<sup>27</sup> or a deviant<sup>28</sup> must not be given any chance to rehabilitate himself . *Its objectives are twofold : the rehabilitation of the offender and the protection of society* . It is a means of helping the inmate to become a law - abiding citizen , while at the same time ensuring that he does not misbehave or commit crimes<sup>29</sup>

### 5. Definition of parole

The term “ parole ” has been defined at different times by different scholars. As defined by *J.L. Gillin* , “ parole is the release from a penal of reformatory institution , of an offender who remains under the control of correctional authorities , in an attempt to find out whether he is fit to live in the free society without supervision.<sup>30</sup> t is the last stage of correctional scheme of which probation may probably be the first and foremost one . Again another criminologist named , *Donald Taft* characterizes parole as a release method which retains some control over prisoners, yet permits them more normal social relationships in the community and provides constructive aid at the time they most need it . According to him “ Parole ” is a release from prison after part of the sentence has been served , the prisoner still remaining in custody and under stated conditions until discharged and liable to return to the institution for violation of any of these conditions .<sup>31</sup> Further , *Dr. Sutherland* considers parole as the liberation of an inmate from prison or a correctional institution on condition that his original penalty shall revive if those conditions of liberation are violated.<sup>32</sup> With the introduction of parole into the penal system , all fixed term sentences of imprisonment above eighteen months are subject to release on licence . It is an act of grace and the convict prisoner may be released on condition that he abides by the promise to return . *The release on parole is considered to be an instrument for the implementation of the reformatory process in respect to the prisoners to provide them with the opportunity to transform them into the law abiding citizens of the country ( India )* .<sup>33</sup>

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<sup>27</sup> Edition Taft and England : Criminology (4<sup>th</sup> Edition) p. 485.

<sup>28</sup> Sutherland and Cressey. : Principles of Criminology - (6<sup>th</sup> edition) p. 575.

<sup>29</sup> Supra Note 9

<sup>30</sup> Supra Note 9

<sup>31</sup> Bhikhabhai Devshi v. State of Gujarat, AIR 1987 Guj. 136

<sup>32</sup> Supra Note 9

<sup>33</sup> Supra Note 9



## 6. Parole in India

Jail is one of the most mysterious section of the prison system . The prisons were present thousand of years back from today , but prior to the eighteenth century , they were seldom used to incarcerate convicted offenders . The surroundings and the very environment of the prisons were very dehumanizing in nature where imprisonment represented different objectives of punishment such that of deterrence , retribution or vengeance and prevention . In India , the prison reforms emerged as an outcome of the worst conditions of treatment faced by the inmates in prisons during the period of their imprisonment . With the march of time and with the dynamic nature of the society , the reformative trend was gaining momentum in the field of penology all around the world and it paved the way to the cause of correctional method of treatment of offenders in India . It was realized that confining the convicts in the closed prison cells hardly serves any purpose . Numerous protests were held in order to develop the jails of India into a humanely place to live in and to dispense justice to the prisoners in regard to their violation of human rights . It was only that during the later half of the twentieth century the significant reforms in the prison administration of India could be felt and experienced .

With the development in the planned penal programme in our country India ; the concept or the process of parole system has been introduced which seems to be in conformity with the existing Indian penal laws . Thus , in the Indian prison system , the concept , nature and scope of parole has proved to be a very successful mechanism of social control in the society and it has also proved to be an aid in promoting the reformative aspect of punishment ; and mould up the criminals into a responsible and law abiding citizen of the country . *The criminals are to be treated rather than to be punished* . Moreover , parole has been utilized as a weapon to narrow down the gap between the prison life and the free life of the outside world .<sup>34</sup> Thus , parole is a constructive device used in the Indian Prison Administration in the present context of the society .

## 7. The object of parole

A door separates them from the world outside . They watch the dark , moonless sky ; the only link between them and the other world . Years of awaiting , life could end here , far from civilization and the world where they born . Their identity a serial number . --- KUMKUM CHADHA In such a dehumanizing environment ; parole is a penal device which seeks to

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<sup>34</sup> Hand Book on Pre - Release Preparation on Correctional Constitutions , New York, American Correctional Association , 1950 . Also refer Manual 1956. Chapter 9, Parole .

humanize prison justice . It enables the prisoner to return to the outside world on certain conditions . The main objectives of parole technique as stated in the Model Prison Manual are :-

1. to enable the inmate to maintain continuity with his family and deal with family matters ;
2. to save the inmate from the evil effects of continuous prison life ;
3. to enable the inmate to retain self - confidence and active interest in life

The main object of parole is to adjudge the adjustability of responsive inmates to normal society by offering them suitable opportunity to associate themselves with the outside world .

### **8. Conditions of parole**

The main purpose of parole is not to express leniency towards the prisoner but to seek his rehabilitation in future life . Parole is a rehabilitative phase of law enforcement . The system essentially involves two considerations , namely :

1. watchful control over the parolees ( the prisoners who are granted the ticket of leave from the prison ) so that he could be returned to prison institution from which he was paroled out if the interest of the public security so demanded ; and
2. constructive help and advice to parolee by securing him suitable work so as to develop self - confidence in him and finally to guard him against exploitation

### **9. Fundamentals of good parole**

“Release on parole is a wing of reformatory process and is expected to provide opportunity to the prisoner to transform himself into a useful citizen .”

The fundamental process which is to be followed for a good parole system are<sup>37</sup> -

1. Preparation .
2. Selection .
3. Supervision .

### **PREPARATION -**

The preparation for parole must start from the moment the convict sentenced with imprisonment enters the prison . In the institution of prison there must be the trained staff which includes social workers , psychiatrists , psychologists , and others concerned with task of understanding the prisoners through which the preparation for parole usually resumes to

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<sup>35</sup> Sutherland and Cressey. : Principles of Criminology - (6<sup>th</sup> edition) p. 586.

<sup>36</sup> Supra Note 9

<sup>37</sup> Supra Note 21

function immediately and systematically . The American Correctional Association has compiled a handbook dealing with pre - release preparation for parole consideration .<sup>38</sup>

### **PAROLE SELECTION -**

An ideal selection method is a necessary ingredient for a good parole system. A prisoner who is to be set free on parole is to be very carefully and reasonably selected . It is an aspect in the ( Indian ) Prison Administration that every prisoner should be released sometime prior to the expiration of maximum sentence , with the aim to provide an opportunity to the prisoners to mould up their personality in order to adjust with the outer world after he leaves the prison institution . Except under certain circumstances ( i.e. he is either broken in spirit or deeply embittered against society ) the inmate becomes a social liability and he is denied parole .

### **SUPERVISION -**

Supervision is another vital method for a successful parole system . The very crux of a successful parole is supervision . The supervision of a parolee is a sine qua non for a productive parole system in prison administration ( India. ) There are the parole officers who are entrusted with the responsibility to supervise the parolees ; in regard to provide help , counsel and guide the parolees/ clients throughout the parole mechanism . The parole officers wear the shoe of the policemen in context to the aspect that the parole officers has to keep an eagle's eye regarding the occurrence of the parole violations by the parolees which aids in maintaining a healthy and optimistic parole system . Similarly , sometimes the parole officers must treat the parolees as their friends in need , or sometimes must play the role of an advisor who thoroughly understands the individual parolee's problems arising therefrom his term in the prison . The real challenge of the officers in the field of supervision of the parolees is their capacity to make the parolee/ client fit for rehabilitation in the community .

*An ideal parole system* transforms a criminal / prisoner to a reformed human being without hampering the security and welfarism in a country like , in India. The combination of both supervision and assistance ( by the parole officers through the parole board ) are inevitable for the implementation of an ideal parole system .<sup>39</sup> The functioning of the concepts of supervision and assistance are very much interdependent with one another for the proper implementation of the parole system in the prison administration . Excessive supervision over parolees without proper guidance would virtually

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<sup>38</sup> Supra Note 9

<sup>39</sup> Supra Note 9

mean that the parole authorities are performing the police functions of keeping a close watch on the prisoner under threat of punishment taking it for granted that the parolees would definitely repeat the crime if not kept under surveillance . Conversely , assistance to parolees without proper supervision will also yield poor results . It is erroneous to think that the parolees can reform themselves merely by affording them “ easy freedom .” It is a part of the parole officer’s duty to ensure that the parolee makes the best use of the opportunities placed before him after his release from the prison . While handling the parolees , priority must be given on the protection of the country against crime rather than the undue leniency towards the parolees .<sup>40</sup>

9.1.Certain principles which have emerged as the essential requisites of an ideal parole system on the basis of past experience These are<sup>41</sup>

- Careful diagnosis of the prisoners ;
- Selection for parole of only those inmates the study of whom shows that they will probably do well on release ;
- Selection for parole of only those of whose release will not outrage the sense of justice of the community from which they came ;
- Proper employment should generally be secured before a convicted is paroled ;
- Placement on proper surroundings ;
- The institution must prepare for parole ;
- Careful follow up is absolutely necessary ;
- Co-operation with private and public social agents ;
- Populous States should have a full time paid parole board , or if an unpaid board , a full time staff ;
- This Board should be composed not of political appointees but of men of intelligence and integrity having experience in such matters ;
- The responsibility of parolee should rest upon this Board ;
- Parole success is connected with the extension of indeterminate sentence ;
- Parole officers must be numerous enough and sufficiently trained to give adequate supervision ;
- Discharge of parolees should be entirely in the hands of the parole board.

#### **10. Control over the parole violation**

It is a human nature , to commit mistake . There is a famous saying that “ *To err is human* ” . In such a circumstance ; the prisoner being a human may at times deviate himself from the conditions on which he was released , the outcome of which is the parole violation and he is liable to be returned to the prison from where he was parolled out . In order to implement the parole system reasonably , judiciously and constructively

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<sup>40</sup> Supra 21

<sup>41</sup> Supra 9

there must be the provision of the control mechanism over the scenario of violation of the parole system

10.1. The procedure to be followed when the conditions of parole are violated<sup>42</sup>

At first , a warrant of arrest is issued and served to the parole - violator and he is arrested and brought back to the prison by the parole authorities without the necessity of a fresh trial in his case . *He is then given a “ parole violation hearing ” and is offered every opportunity to defend his case in person or through a counsel*<sup>43</sup> . If he unable to justify his conduct , he is made to undergo the unexpired term of his sentence . If he has violated parole conditions by committing another crime , then in regard to that case , he shall be tried for the new offence and sentenced accordingly<sup>44</sup> . But he shall not be granted with the opportunity to receive “ the ticket to leave ” for the second time i.e. while undergoing a term of sentence for his subsequent offence . In India , it is provided that if any prisoner fails without sufficient cause to observe or follow any of the conditions as laid down by the Parole Board on which the release on parole is granted to him , he shall be deemed to have committed a prison offence under Section 48-A of the Act .<sup>45</sup> Such parolees shall be proceeded against under the appropriate law for the parole – violation .

In order to prove the parole system as one of the essentials’ in the Indian Prison Administration ; the control mechanism at the times of parole violation is of great necessity .

*Thus , the parole system in the Indian Prison Administration is an agency to deal with the dehumanizing state of environment wherein the prisoners’ human rights are being violated daily and the wherein the inmates undergoes extreme harshness and sufferings in the jails or prisons (India) .*

## **11. Conclusion**

Thus , parole is a system and a constructive device used in the Prison Administration for the reformation and rehabilitation of the prisoners which was evolved and developed particularly in the prisons of Ireland , England and United States of America long years back . Further with the march of time it has been developed and adopted in the Indian Prison Administration as an agency to deal with the dehumanizing state of environment wherein the prisoners’ human rights are being violated daily and wherein the inmates undergoes extreme harshness and sufferings in the jails or prisons (India) ; thus maintaining humanism and welfarism in our egalitarian society.

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<sup>42</sup> Supra 9

<sup>43</sup> Principle of Natural Justice is implemented .

<sup>44</sup> Article 20(2) of The Constitution of India .

<sup>45</sup> Section 48-A OF the Prisons Act ( IX of 1894 ) .

The parole system in the Indian Prison Administration is an agency to transform our prisons into the rehabilitative institutions wherein the prisoners are treated humanely and wherein one's personality is nurtured and is trained to transform oneself from a criminal into a responsible citizen of our country .

**Some Suggestions are:**

1, In India, The Government of India has to legislate as well as execute further reforms in the Parole System for the upliftment of humanity amongst the prisoners in order to prove it to be strong weapon of rehabilitation.

Certain strong guidelines has to be laid down in order to execute the parole system in a very progressive manner. Parole is an integral part of the correctional process . It is a kind of consideration granted to the prisoners to help them to come back into the mainstream of life . It is nothing but an instrument of social rehabilitation of the prisoner in the ambit of prisonidation.