

**A CRITICAL ANALYSIS OF GRANT OF PAROLE BY
QUASI-JUDICIAL AUTHORITIES WITH SPECIAL
REFERENCE TO THE STATE OF MADHYA PRADESH**

A Thesis submitted to the

UPES

For the Award of

Doctor of Philosophy

In

Law

By

Gautam Gupta

May 2025

Supervisor

Prof. Dr. Shikha Dimri



School of Law

UPES

Dehradun 248007: Uttarakhand (India)

**A CRITICAL ANALYSIS OF GRANT OF PAROLE BY
QUASI-JUDICIAL AUTHORITIES WITH SPECIAL
REFERENCE TO THE STATE OF MADHYA PRADESH**

A Thesis submitted to the

UPES

For the Award of

Doctor of Philosophy

in

Law

By

Gautam Gupta

(SAP ID: 500072282)

May 2025

Supervisor

Prof. Dr. Shikha Dimri

Professor,

School of Law, UPES



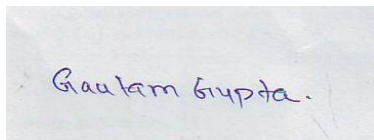
School of Law

UPES

Dehradun 248007: Uttarakhand (India)

DECLARATION

I **Gautam Gupta** hereby declare that the thesis entitled “**A Critical Analysis of Grant of Parole by Quasi-Judicial Authorities with Special Reference to The State Of Madhya Pradesh**” has been prepared by me based on original research under the guidance of Dr. Shikha Dimri, Professor of School of Law, UPES, Dehradun. I further declare that No part of this thesis has formed the basis for the award of any degree or fellowship previously.



Gautam Gupta (Sap Id: 500072282)

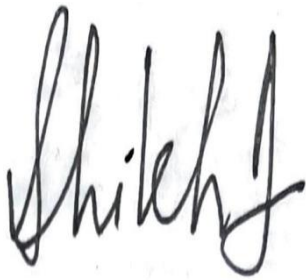
School of Law,

UPES.

Dehradun 248007: Uttarakhand (India)

CERTIFICATE

I certify that **Mr. Gautam Gupta** has prepared his thesis entitled, “**A Critical Analysis of Grant of Parole by Quasi-Judicial Authorities With Special Reference to The State Of Madhya Pradesh**” for the award of a Ph.D. degree from the UPES, under my guidance. He has carried out work at the Department of School of Law, UPES.



Supervisor

Dr. Shikha Dimri

School of Law,

UPES.

Dehradun 248007: Uttarakhand (India)

ABSTRACT

The Constitution of India guarantees to an individual right to life and personal liberty by the procedure established by law which by judicial pronouncements has developed is not limited to just being a procedure established by law but also same is recognized by the due process of law. An individual who has committed a crime and is convicted by the law of the land is incarcerated into prisons with the curtailment of his rights. The prisoner is subject to law of the prisons which is a matter of state list on which the respective states are empowered to make rules and regulations. The researcher in this study has made an attempt to analyse the laws relating to the grant of parole by the authorities and also done an empirical study by collecting data from specific jails of state of Madhya Pradesh. The research is titled as “A Critical Analysis of Grant of Parole by Quasi-Judicial Authorities with Special Reference to The State Of Madhya Pradesh”

The introductory part of the research relates to the foundational details pertaining to the research such as research problem, hypotheses, literature review, research questions, scope of the research. The researcher in this part has made an attempt to examine the different aspects which were necessary for the advancing in the merits of the research theme. The introductory part mentions about the motivation and reasons for the selection of the research problem, the research objectives, the research questions, the research methodology, the hypothesis.

The research further discusses the Parole as a correctional instrument for social rehabilitation of prisoners. In this part the researcher has discussed the introduction and historical evolution of the prison system with the various theories of punishment. The researcher has also discussed steps taken by the governments after independence for the jail reforms and also the suggestions made at the international forums for prison reforms. The researcher in this part has made an attempt to analyses the problems faced in the administration of the prison system such as overcrowding in prisons, delay in trial, neglect of health and hygiene. Further in this part has discussed about the rights of the prisoners with the welfare programmes for the prisoners. The researcher has discussed about the history of parole laws, meaning of parole and made an attempt to clearly point out the differences between various therapeutic techniques such as probation, furlough, suspended sentence, indeterminate sentence. In this part the researcher has also analysed the laws of parole in India and why parole is an important and necessary correctional instrument for the social rehabilitation of prisoners.

The researcher further in the research has made an attempt to analyse the legislative framework governing the law of parole with the present legal situation. The researcher has further discussed in this part the procedure for the grant of parole which with special reference to the procedure which is laid down by the state of Madhya Pradesh. The researcher has examined the Madhya Pradesh Prisoners Leave Rules, 1989 and as during the time of collection of data the researcher had the opportunity to interact with many jail authorities, the researcher had made an attempt to highlight the problems faced by the prison administration and prisoners for the grant of parole.

The researcher further has discussed the judicial approach to parole and the role and functioning of the quasi-judicial authorities. The researcher by various judgments of the Supreme Court and the High Courts has made an attempt to examine the role of quasi-judicial authorities in adjudicating the applications of parole and what approach should such authorities should have in mind at the time of deciding such applications. The researcher further has made an attempt to analyse and examine the law of parole in the international perspective by discussing the law of parole with states such as Sweden, Canada, U.K., U.S and Pakistan. The researcher in the research has made an attempt to analyse the good practices which a state may adopt for surveillance of the convicted prisoners and public hearings in parole procedures.

The research further in this study has made an attempt for the critical evaluation of the law of parole with reference to the state of Madhya Pradesh. For this study the researcher has collected and analysed the data through questionnaire from convicted prisoners and prison personnels of Katni, Bhopal, Jabalpur and Narsinghpur Jail. The researcher has also collected and analyse data from various individuals such law students, academicians, advocates for understanding of the law of parole in the societal perspective.

The researcher in this research has discussed the findings in the part of Conclusion and Recommendations which further set out with further area of future research. In the concluding part of the research the researcher answers the research questions and tests the hypotheses.

The research has come up with seven set of suggestions/recommendations vis-à-vis law relating to parole in India which have been elaborately explained in the thesis and in a nutshell put here as follows:

- Need for Establishment for Parole Board
- Constitution of Parole Board

- Functioning of the Parole Board
- Public hearing for the victim's family.
- Use of Technology
- Legal Aid & Revisional Jurisdiction of Sessions Court
- Other Recommendations

ACKNOWLEDGMENT

The completion of this PhD thesis has been a deeply enriching journey, one that would not have been possible without the support, guidance, and encouragement of many individuals and institutions.

First and foremost, I would like to express my heartfelt gratitude to my supervisor, Prof. Dr. Shikha Dimri, for her invaluable guidance, intellectual support, and consistent encouragement throughout the course of my research. Her insightful feedback, patient mentorship, and unwavering belief in my work have played a pivotal role in shaping this thesis. Her guidance was instrumental in navigating the various phases of this research, instilling in me the confidence and resilience needed to overcome each stage of the program.

I am also sincerely thankful to Prof. Dr. Abhishek Sinha, Dean, School of Law, for his academic leadership, valuable suggestions, and constant support at various stages of my doctoral journey. His role in fostering a rigorous and enabling research environment has been immensely helpful.

I extend my sincere thanks to the Director General of Prisons, Madhya Pradesh for granting the necessary permissions and institutional support that enabled me to carry out my research. I am also deeply grateful to the Superintendent of Jails of Katni, Bhopal, Narsinghpur, Jabalpur and Public Welfare Officer at Jabalpur whose practical assistance and cooperation at the ground level were instrumental in facilitating access and ensuring the smooth conduct of fieldwork.

I am especially indebted to the convicted persons, prison personnel's and professionals who generously took the time to complete the questionnaire and share their perspectives. Their participation forms the backbone of this study, and I am deeply thankful for their openness and contributions.

I am profoundly thankful to my Vice Chancellors in the University Prof. Balraj Singh Chauhan, Prof. (Dr.) V. Nagaraj, and Prof. (Dr.) Manoj Kumar Sinha for their support, visionary leadership and for fostering an environment conducive to research and academic excellence.

I would also like to acknowledge the guidance and camaraderie of my seniors and colleagues Dr. Ashish Verma, Dr. Praveen Tripathi, Prof. Dr Afkar Ahmed, Dr. Prakash Sharma, Dr. Udit Raj Sharma, Mr. Ashutosh Tripathi and Mr. Rupendra Singh Jadaun whose insights, encouragement, and support have enriched my academic experience.

My sincere thanks to the Dean R & D, UPES Ph.D. program staff, UPES library Staff, IT staff, and office staff.

I owe everything to my parents, whose sacrifices, unconditional love, and constant support have been the bedrock of my journey. Their values and strength have always inspired me to persevere.

To my wife, thank you for your endless patience, love, and understanding. Your support during the toughest moments of this journey has been my source of strength and peace.

To my friends and extended family, your words of encouragement and companionship have brought balance and perspective when I needed it the most.

This work stands as a testament not only to my academic efforts but to the collective support, faith, and kindness I have received from all of you.

TABLE OF CONTENTS

S.No.	Content	Page Nos.
1	DECLARATION	i
2	CERTIFICATE	ii
3	ABSTRACT	iii
4	ACKNOWLEDGMENT	vi
5	LIST OF TABLES	xiii
6	LIST OF FIGURES	xiv
7	LIST OF ABBREVIATIONS	xvi
8	LIST OF CASES	xvii
Chapter 1	INTRODUCTION	1-22
	1. Introduction	1
	1.1 Aim & objectives of the study	5
	1.2 Hypothesis:	5
	1.3 Research Problem:	6
	1.4 Scope of the Research:	7
	1.5 Limitations:	8
	1.6 Research Questions:	9
	1.7 Methodology	9
	1.8 Literature Review:	11
	1.9 Research Gap	21
Chapter 2	PAROLE: A CORRECTIONAL INSTRUMENT FOR SOCIAL REHABILITATION OF PRISONERS	23-68
	2. Introduction to prison system	23
	2.1 Theories relating to imprisonment	24
	2.1.1 Theory of vindication	25
	2.2.2 Theory of retribution	25
	2.2.3 Theory of penitence	25
	2.2.4 Theory of neutralization	25
	2.2.5 Theory of deterrence	26
	2.2.6 Theory of reformation	26
	2.2 Historical evolution of prison system upto the period of Indian independence	

2.2.1	Prison systems in ancient India	27
2.2.2	Prison system in medieval India	27
2.2.3	Prison system in British India and the modern prison system	30 31
2.2.4	Policy of government on jail reforms and the law	34
2.2.5	Evolution of prison administration and reforms	34
2.3	Prison reforms done by the central government after independence	35 35
2.4	Steps taken by the central government to implement prison reforms as suggested at international level	37
2.5	Setting up of central bureau of correctional services in 1961	38
2.6	Working group on prisons in 1972	39
2.7	Prison reforms	
2.8	Overcrowding	41
2.9	Delay in trial	42
2.10	Torture and ill-treatment	43
2.11	Neglect of health and hygiene	44
2.12	Insubstantial food and inadequate clothing	44
2.13	Prison vices	45
2.14	Deficiency in communication	45
2.15	Streamlining on jail visits	45
2.16	Management of open air prisons	46
2.17	Rights of the prisoners under the Prisons Act, 1894.	46
2.18	Judicial response	47
2.19	Welfare programmes for prisoners	47
2.20	Therapeutic techniques	53
2.21	Meaning of parole	55
2.22	History of parole	56
2.23	Why parole is to be granted?	57
2.24	Laws on parole in India	58
2.25	Sentence on conviction and parole	59
2.26	Distinction between parole and probation	62

	2.27 Distinction between parole and furlough	63
	2.28 Distinction between parole and indeterminate sentence	64
	2.39 Distinction between parole and suspended sentence	65
		67
Chapter 3	LEGISLATIVE FRAMEWORK GOVERNING PAROLE	69-94
	3.1 Introduction	
	3.2 Legislative background	69
	3.3 Current legal situation	69
	3.4 Prison Manuals	71
	3.5 Delhi Jail Guide	74
	3.5.1 Guidelines for Parole/Furlough, 2010	75
	3.6 Grant of parole/leave rules of Madhya Pradesh	77
		86
Chapter 4	JUDICIAL APPROACH TO PAROLE: ROLE AND FUNCTIONING OF QUASI-JUDICIAL AUTHORITIES	95-123
	4 Introduction	
	4.1 Delivery of parole	95
	4.2 Unrestricted use of parole	95
	4.3 Young age	100
	4.4 Family events	100
	4.5 Agricultural objectives	102
	4.6 Old age or illness of the prisoner	104
	4.7 Emergency and Custodial Parole	107
	4.8 Overstay	108
	4.9 Extension of parole	109
	4.10 Pendency of Cases/Appeal	111
	4.11 Miscellaneous	111
	4.12 Rejection of parole	112
	4.13 Parole and special legislation	116
	4.13.1 The Conserve Foreign Exchange and Prevent Smuggling Activities OF 1974	119
	4.13.2 Act of 1985 on Narcotic Drugs and Psychotropic Substances	119
		120

	4.13.3 Army Act of 1950	
	4.13.4 Maintenance of Internal Security Act, 1971	121
Chapter 5	PAROLE: AN INTERNATIONAL PERSPECTIVE	124-145
	5 Introduction	124
	5.1 Defining Parole	125
	5.2 The history of corrections in Sweden	128
	5.2.1 The parole system in Sweden	129
	5.3 Canada correctional history	131
	5.3.1 The parole system in Canada	134
	5.4 Pakistan's system of parole	136
	5.4.1 Pakistan's probation and parole System: structure and operation	137
	5.4.2 Extent of the parole system	139
	5.4.3 What separates probation from parole?	140
	5.5 Parole in U.S. and U.K.	142
	5.5.1 Legal framework	142
	5.5.2 Citizen participation	142
	5.5.3 Transparency	143
	5.5.4 A comparison of the parole procedure and the public hearing	143
	5.5.4.1 United States of America	143
	5.5.4.2 United Kingdom	144
Chapter 6	PAROLE: A CRITICAL EVALUATION WITH REFERENCE TO THE STATE OF MADHYA PRADESH	146-202
	6 Introduction	
	6.1 Probation and Parole System Activity in India's criminal justice administration	146
	6.2 Retributive	146
	6.3 Expiative	147
	6.4 Deterrence	147
	6.5 Protection	147
	6.6 Reformation	148
	6.7 Probation and Parole functioning in criminal justice	148

	6.8 Probation and Parole's efficacy as a better option than prison for prisoners' social rehabilitation	149
	6.9 Parole	149
	6.10 Care of released prisoners after release	149
	6.11 Procedure for grant of parole/leave	150
	6.12 Judicial approach for M.P./C.G Prisoners Leave Rules, 1989	152 154
	6.13 Misuse of parole	
	6.14 Analysis of data	160
	6.15 Data analysis respondents from different profession	164
	6.16 Data analysis of prisoners	165
	6.17 Data analysis of prison personnel's	176
	6.18 Demographic analysis	187
Chapter 7	CONCLUSION AND RECOMMENDATIONS	203-219
	BIBLIOGRAPHY	221-227
	LIST OF PUBLICATIONS	228

LIST OF TABLES

S.N.	Table Number & Title	Page Number
1	Prisoners Data for 2019, 2020, 2021	52
2	National Crime Records Bureau, Ministry of Home Affairs, Government of India – Published in 2022	91
3	Prison Statistical Report (2005–2022) for Madhya Pradesh – Parole Releases, Absconders, and Re-arrests	151
4	Record for Parole Jumpers	163
5	Distribution of Convicts (Indian Prisoners) in Jails by Sex and Age Group	200

LIST OF FIGURES

S.N.	DETAILS OF FIGURE	PAGE NUMBER
Figure 1	Number of Prisoners released on Parole	152
Figure 2	Data analysis respondents from different profession	165
Figure 3	Data analysis respondents from different profession (Age)	165
Figure 4	Correctional Institutions	166
Figure 5	Parole granted to an offender	167
Figure 6	Who grants Parole?	168
Figure 7	Role of authorities in the exercise of their discretion to grant parole.	169
Figure 8	Factors which may be involved in the grant of parole.	170
Figure 9	Factors for denied or grant of parole such as political bias, pecuniary etc.	171
Figure 10	Public hearing in Parole	172
Figure 11	Appeal or Revision before Criminal Courts	173
Figure 12	Acquaintances with Parole Officers	174
Figure 13	Acquaintances with Parolee	175
Figure 14	Prisoners Data	176
Figure 15	Application for Parole	178
Figure 16	Offence for incarcerated	179
Figure 17	Process of grant of Parole	180
Figure 18	Grant of parole application	182
Figure 19	Rejection of Parole.	184
Figure 20	Application for Parole in High Court	186
Figure 21	Data for Prison Personnels.	188
Figure 22	Jail Data for prison personnel	190
Figure 23	Factors in parole application	192

Figure 24	Role of legal services authority.	193
Figure 25	Prisoners influence for Parole application	195
Figure 26	Grounds for rejecting parole application	197
Figure 27	Total released on Parole/Total Prisoners	201
Figure 28	Total released on Parole/Total Prisoners- Male	201
Figure 29	Total released on Parole/Total Prisoners- Female	202

LIST OF ABBREVIATIONS

A.I.R	All India Reporter
All.	Allahabad
Art.	Article
BNS	Bharatiya Nyaya Sanhita, 2023
BNSS	Bharatiya Nagarik Surakhsha Sanhita, 2023
Cr. L.J.	Criminal Law Journal
Cr.P.C	Code of Criminal Procedure
e.g.	Example Gratia
GLR	Gujarat Law Reports
Guj.	Gujarat
H.C.	High Court
i.e.	That Is
I.L.R.	Indian Law Reports
I.P.C	Indian Penal Code, 1860
ICCPR	International Covenant on Civil and Political Rights
ICESR	International Covenant on Economic, Social, and Cultural Rights
N.C.R.B.	National Crime Record Bureau
Ors	Others
p.	Page
Raj.	Rajasthan
SC	Supreme Court of India
SCC	Supreme Court Cases
Sec	Section
UOI	Union Of India
V.	Versus
Vol.	Volume

LIST OF CASES

- Ala Ramji vs The State Of Gujarat And Ors, 1992CRILJ867; (1991)2GLR18
- Asfaq v. State of Rajasthan. (2017) 15 Supreme Court Cases
- Avtar Singh V. State of Haryana, AIR 2002 SC 1109
- Babubhai Ukbhi V. The State of Gujarat , 1987 Cri.LJ 1786 (Guj.).
- Babulal Das V. State of West Bengal, AIR 1973 SC 606
- Bagga, G. v. Delhi Administration. (1987). 1987 CriLJ, 1497 (Del.).
- Bakshi Ram case AIR 1990 SC 1013
- Baldev Singh V. State of Punjab , 1993 Chandigarh Criminal Cases 288
- Bhanwar Lai Godara v. State of Rajasthan, (1976)1 SCC 655
- Bhikabhai Devshi V. State of Gujarat ,1987 Cr L.J 1932 (Guj).
- Budhi v. State of Rajasthan, MANU/RH/0489/2005;
- Busching Schuritz Pvt. Ltd. v. P.T. Menghani, AIR 1977 SC 1569.
- Chandra Prakash V. The State of NCT of Delhi, W.P.(CRL) 1374/2010.
- Charanjit Lai v. State (Delhi Administration Cr.LJ 1541 (Del) 1985.
- D. Bhuvan Mohan Patnaik & Ors vs State Of Andhra Pradesh 1975 SCR (2) 24
- Dadu V. State of Maharashtra, AIR 2000 SC 3203.
- Darshan v. State of Haryana W.P. No. 969 of 2013
- Dharambir v. State of Uttar Pradesh AIR 1979 SC 1595
- Dharamvir V. State of U.P (1979) 3 SCC 645.
- Dinesh Kumar v. Govt. of NCT of Delhi, W.P.(C) 1229 OF 2012
- Divisional Officer v T.R.Chellappan 1976 3 SCC 191
- Gujarat v. Lal Singh, 2016 (2016) 8 SCC 370.
- Gupta, K. V. (1996). Perspectives on Human Rights. Vikas Publishing House..
- Gurdeep Bagga v. Delhi Administration, 1987 Cri U 1419 (Del.).
- Haider Khan Lai Khan Pathan v. State of Gujarat, 1993 Cri U 1266 (Guj)
- Hariom Vijay Pande v. State of Maharashtra, through Divisional Commissioner, CRIMINAL WRIT PETITION NO. 769 OF 2019
- Haryana State v. Devi Singh Criminal, W.P. No. 932 of 2013
- Hira Lai Mallick V. State of Bihar (1997) 4 SCC 44
- Home Secretary (Prison) v. H. Nilofer Nisha, CRIMINAL APPEAL NO(S). 144 OF 2020

- Inder Singh v. State AIR 1978 SC 1091
- Jai Chand Singh v. Jail Superintendent, 2005 CriLJ 1326.
- Jayant Veerappa Shetty and Another vs State of Maharashtra and Others, 1986(1) BOMCR311
- Kantilal Nandlal Jaiswal v. Divisional Commissioner, Nagpur, Criminal Writ Petition No. 1046 of 2018
- Karam Singh V. State of H.P, 1993 Cr.LJ 3751 (H.P.).
- Kavuri Sudestamma V. State of A.P., 1985 CriLJ 1890 (A.P.).
- Kesar Singh Guleria v. The State of Himachal Pradesh & Ors. 1985 Cri LJ 1202
- Krishan Lai V. State of Delhi, (1976)1 SCC 655
- Krishan v. State of Haryana MANU/SC/0675/1997
- Lal Singh v. State of Gujarat, (2012) SCC OnLine P&H
- M. Rajput v. State of Gujarat, 1991(2) Crimes 160.
- Manjutabai V. State of Maharashtra (2002) 3 Bom. LR 782
- Manu Sharma V. State of Delhi AIR 2010 SC 2352.
- Maru Ram v. UOI, AIR 1980, 2147
- Menon v. State of Haryana, CrI WP No. 1469 of 2012
- Milhouse v. Levi, 548 F.2d 357, 364 (D.C. Cir. 1976).
- Mohammed Giasuddin V. State of A.P (AIR 1977 SC 1926)
- Mohar Singh & Others V. State of Punjab, CRWP No. 1529 of 2012 (O&M)
- N.S. V. The Additional Director General WP (c) No. 34407 of 2010
- Navneet V. State of Maharashtra, (2000) 10 SCC 326.
- P. Ramachandra Rao v. State of Karnataka (2002) 4 SCC 578
- Pili Singii V. Secretary of the Home Department, (2006) Cri L.J 1515
- Poonam Lata V. Wadhawan, AIR 1987 SC 1383
- Rabindra Kumar Pal @ Dara Singh V. Republic of India, Criminal Appeal No. 1259 of 2007.
- Rahul Sharda V. State of Punjab & Others , CrLWP No. 1469 of 2012
- Ratan Das Vs. State of Chhattisgarh and Ors 2021 Cri LJ 3823
- Rattan Lal v State of Punjab AIR 1965 SC 444
- S. Sant Singh .vs. Secretary, Home Department, Government of Maharashtra reported in 2006 Cri.L.J. 1515
- Saibanna v. State of Karnataka, CASE NO.: Appeal (crl.) 656 of 2004
- Saibanna v. State of Karnataka, (2005) 4 SCC 165

- Saradhkar Sahee v State of Orissa [1985 Cri. L.J., Orissa, p-159]
- Satish Chandra Tyagi V. State of Himachal Pradesh ,1986 ShimLC 173
- Shakuntia Devi v. State , 1996Cr. L.J. 2954.
- Smt Rayapudi Lakshmi v. The Superintendent, Central Prison, Rajahmundry , 2001 Cri LJ 1976
- Smt. Poonam Lata vs. M.L. Wadhawan & Ors, 1987 SCR (2)1123
- SPECIAL LEAVE PETITION (CRL) NO.4116 OF 2020
- State of Gujarat v. Lal Singh. (2016). 8 SCC 370.
- State of Haryana V. Karambir Singh 2001 (5) SCC 427
- Sunil Batra v. Delhi Administration (1978) 4 SCC 409
- Sunil Fulchand Shah V. Union of India, AIR 2000 SC 1023
- Suraj Giri V. The State of Rajasthan , 2011 Cri. LJ. 1534; 2010(4) RLW 3507
- Swamy Shraddananda v. State of Karnataka, 2008 (2008) 13 SCC 767
- UOI v. Raghuveer Singh (Dead), 2005(1) WLC Raj. 93, See also; Rattiram V. State of M.P. (2012) 3 sec 516.
- Varun & Gullu V. state of Haryana ,CrI. Misc No M-34013 of 2009
- Veeramchaneni Raghavendra Rao V. Government of Andhra Pradesh, 1985 CriLJ 1009 (A.P.).
- Vijayakumar & Ors v. Public Prosecutor (AIR 1978 SC 1485)
- Vikas Chaudhary v State, (2023) SCC Online SC 472
- Vikas Yadav v. State of U.P., (2016) 9 SCC 541

CHAPTER 1

1. INTRODUCTION:

Man is not an individual but a social animal who needs a family as well as society for living. Being a member of the family he has obligations towards his parents, wife and children. He develops in a society engrossing its values and standards of behaviour responsible to social groups and humanity. He lives, works and dies in a social environment with the expectation of developing a scientific temper, humanism and the spirit of inquiry and reform.

Crime is inexorable in any society. Though we have progressed in all spheres of life but everywhere some human beings have committed acts beyond the permitted rules of conduct. It can be said that only a utopian state can be crime free. In fact, crime is a constant phenomenon changing with the social transformation. Crime demonstrates abnormal forms but the existence of crime in any society is normal. Even a society composed of persons with angelic qualities would not be free from violations of the norms of that society. (Burkhardt, 2016)

It is the paramount duty of the state to maintain law and order in the society. The primary function of civil states is to either deter the potential offenders or to incapacitate or prevent them from repeating the offence or to reform them into law abiding nationals by punishing them as per the Law Codes of the state.

In the development of criminal jurisprudence in penology, it is realised that grant of punishment should be proportionate to the gravity of the offence and suggested that for rehabilitation of criminals, reformation is more purposeful than their expulsion from society.

As the society is continuously growing there always exists a conflict between individual liberty and social security. India being a developing, plural, closed society the conflict becomes more severe and complicated making it necessary to strike a balance between security and liberty.

The retributive and the deterrent jurisprudence rejects the reformatory notions for the criminals. On the other hand, reformatory jurists emphasises on the rehabilitations of criminals.

Initially when the prisons were established there was dominance of deterrent and retributive theories of punishment and criminals were treated like animals in prisons and the prison life was terrifying and horrible for the criminals. But with the development and advancement of scientific, technological, philosophical knowledge and scientific temper led to the expansion of novel thoughts and notions in penology.

The reformatory and rehabilitative theories of punishment were considered more attractive to penologists as the retributive and deterrent theory were unable to reduce the crime rates in society.

With development of society and recognition of human rights the scientific approach towards the behavioural science for criminals started getting importance with reformation and rehabilitation to be goals of punishment. This resulted in the change of content in the life of prisoners and even the prison. An attempt was being made by the state to make the social environment of prison more humane and wholesome. The offenders were considered to be humans that being animals or slaves for the state.

Today penologists consider imprisonment to be serving a dual purpose. Firstly, it is eliminating criminal from the society and secondly it provides for an institutional mechanism for the reformation and rehabilitation of offenders. The reformatory and rehabilitative jurisprudence makes prisons not merely a detention centre but also attempts to reform the inmates for their comeback to society as law abiding citizens.

Justice Krishna Iyer in Sunil Batra case (Sunil Batra v. Delhi Administration, 1980) said that "Basic Constitutional Rights can't be halted at the prison gates and can be enforced within the prison campus." and Justice D.Y. Chandrachud expressed that "Convicts are not, by mere reason of the conviction denuded of all the fundamental rights which they otherwise possess. A compulsion under the authority of law, following upon a conviction, to live in a prison-house entails by its own force the deprivation of fundamental freedoms like the right to move freely throughout the territory of India or the right to "practice" a profession... likewise, even a convict is entitled to the precious right guaranteed by Article 21 of the Constitution that he shall not be deprived of his life or personal

liberty except according to procedure established by law" (Bhuvan Mohan Patnaik & Ors vs State Of Andhra Pradesh, 1975)

With the passage of time prisoner's right is gaining importance with human rights dimensions with prison administration. With the shift from deterrent to rehabilitative and reformatory measures for prisoners there is an improvement in the prison system and prisoner's behaviours but still the general conditions of the prisons are not satisfactory and due to overcrowding, corrupt practices, poor medical facilities, absence of conjugal visits, custodial deaths, non-segregation of criminals into categories etc. the conditions of prisoners are far from satisfactory. As the prison reforms were not satisfactory and for the purpose of giving importance to reformatory and rehabilitative than to punitive jurisprudence and significantly reduce to the overcrowding of prisoners the state governments through the prison authorities have taken various steps such as parole and furlough, remission, premature release etc. as an alternative to imprisonment.

At present the whole world is fighting against the novel Corona virus and most of the countries are in a state of curfew or lock down. The only measure to fight against this epidemic is social distancing. As in our country the prisons are overcrowded with convicts and under trial prisoners. To decongest the prisons and protect the human rights of the prisoners against this novel virus a great step has been taken by our apex court in a *Suo Motu Writ Petition (CIVIL) No.1 OF 2020 IN RE: CONTAGION OF COVID 19 VIRUS IN PRISONS* By order dated 23.03.2020, the Supreme Court has directed the States/Union Territories to constitute High Powered Committees which could decide which prisoners may be released on interim bail or parole during the pandemic (COVID 19). In compliance to the order various states such as Madhya Pradesh (Times of India, 2020), Haryana (Republic World, 2020) etc. through the High-Powered Committee has released or about to release the prisoners on parole.

Under the prison jurisprudence Parole is the most powerful wing of reformatory process for reformation and rehabilitation regardless of the crime being committed by the offender he is still a human being with human feelings. (Republic World, 2020) Besides in helps in reducing the overcrowding in prisons.

Parole pursues the object of rehabilitation of offenders to enable them to deal with the family matters such as pregnancy of wife, sowing crops etc. and also protects the prisoner from the evils of continuous prison life which involves skilful supervision outside the prison.

After the conviction and serving some portions of the sentence being awarded, the convict may be released on parole by the administrative authority as provided by the rules of the state. Thus, the release of the convict is not the result of a judicial decision but it is purely out of an administrative decision while performing a quasi-judicial function.

The parole board while releasing the prisoner on parole put certain conditions for the release of the prisoner in society and it is not expected that the prisoner would commit a new offence during the duration of parole period. The release of the prisoner comes in conflict with the security of the state and it becomes necessary to strike a balance between reformation and rehabilitation of criminal and security of society.

The subject of prisons falls under the state list (Entry 4, The Constitution of India, 1949) therefore the legal position varies from state to state. Therefore, a study of its history and international position would be necessary to evaluate the existing legal position on parole in India.

It is necessary to bring out and enquire about the legislative policy of the states that the law on parole has a uniformity or is in a state of confusion. Though law on parole is a very important for the students of law from the perspective of procedural application as well as from societal aspect towards prison system and prisoners. Generally, law relating on parole is not being prescribed in under graduate programmes of law.

As grant of parole is a quasi-judicial function performed by the competent authority of the state the researcher through this study would make an attempt to bring the issues which came before the courts of various High Courts and Supreme Court. Through this study an attempt would be made to examine this therapeutic or reformatory wing of reformation and rehabilitation of treating the prisoners.

The Code of Criminal Procedural, 1973 (now BNSS 2023) does not provides for the therapeutic technique of parole. The law relating to parole may be referred in The Prison Act of 1894, The Prisoner's Act of 1900 and State legislations which needs to revised and amended as some of the provisions have become redundant.

Parole and similar therapeutic techniques such as Probation, Admonition Remission, furlough etc. have come in prominence because of insistence on adoption of alternatives to imprisonment approach. The Supreme Court of India has shown concern for the prisoners in order to give them justice and fair treatment. It's an accepted notion that reformatory philosophy and a rehabilitative policy to be a part of prison justice. But even after the legislative and judicial measures, the condition of prisoners is not improving at the expected level. The present study is an attempt to understand the need and necessity of prison reforms in reference to the leave granted to the criminals on parole with the identification of the problems and its limitations. To offer appropriate suggestions an attempt is made for a comparative study of the law of parole in developed countries such as United States, United Kingdom etc. to make the prison administration more effective and humanized one.

1.1 Aim & objectives of the study:

The aim of the study is to explore gap between the legislative policy, judicial approach and societal issues relating to parole.

In this context, the study intends the following objectives:

- To find out whether parole as a component of correctional administration is successful.
- To identify the problems and the limitations of the grant of Parole.
- To understand the role of regulatory mechanism on prison administration by competent authority in exercise if it's quasi-judicial function.
- To evaluate the methods applied by the jail authorities for the reform of the prisoners.

1.2 Hypothesis:

This research has been inspired by the need for a systematic analysis of legislations, reports, administrative decisions and judicially recognized principles in respect of the release of prisoners.

The researcher proceeds with the following hypotheses:

- Parole is rejected in most cases by the administrative authorities as they act in a mechanical manner without judicial application of mind.
- Parole is meant for fulfilment of the purpose of imprisonment which is not deterrent, retributive or custodial but reformatory and rehabilitative.
- Parole facility is misused by most prisoners who are financially well while the poor and less privileged convicts continue to serve their sentence.

1.3 Research Problem:

The Supreme Court recognised the facility of parole as an administrative action. (S. Sant Singh vs. Secretary, Home Department, Government of Maharashtra, 2006) The State shall not deny to any person equality before the law or equal protection of the laws (Article 14, The Constitution of India, 1949) and the treatment to a prisoner must satisfy the test of Articles 14, 19 and 21 of the Constitution of India. This treatment to a convict is relevant even in the context of the grant of Parole as this progressive measure of correction service is meant to ensure that the prisoners are treated humanely and they are able to maintain continuity of their family life and that they are saved from evil effects of continuous prison life. (Sunil Batra vs. Delhi Administration, 1980)

The Code of Criminal Procedure does not contain any provision for grant of parole. The rules are being framed in states administrative instructions regulating the grant of parole. A convict has to approach the state government or the jail authorities as prescribed by the parole rules of the state which are purely administrative in character for facilitating release on parole.

In various cases it has appeared that the competent authority while facilitating parole is granted easily to prisoners who are financially well of or politically well-connected. They manage to get this leave easily in comparison to a lesser privileged convict. The facility of parole is for reformation but it has been observed in many cases that this leave when granted is being misused by the convicts. (Jessical Lal murder case and Bibi Mohanty Rape case)

Manu Sharma, a convicted murderer, asked for parole on three grounds: to attend religious rites for his late grandmother, to tend to his ageing mother and, to take care of the family's business interest. He misused parole and returned to jail only after he was

traced to a Delhi pub enjoying his night life with friends, drinks and dance. (Telegraph India, 2011)

Bibi Mohanty case. The convict, the son of a DGP, Orissa, was sentenced for rape of a German national. He was sentenced to seven years rigorous imprisonment along with fine. He was granted fifteen days parole to visit his ailing mother. He escaped and his father pleaded ignorance about his whereabouts. A significant period of seven years elapsed; the police caught him from Kerala, the convict changed his identity. His father refused to accept that the person arrested was his son. A court has recently ordered the DNA test to establish his identity. (First Post, 2013)

Justice should not only be done but seen to have been done. The misuse of the facility of parole system would defeat the entire process of criminal justice administration and justice will be defeated. The competent authorities should repose confidence in the people that parole facility cannot be misused by the criminals and if any prisoner irrespective of his status want parole on correct terms, he would be able to avail the same. The administrative discretion on the grant of parole is not only for privileged convicts.

1.4 Scope of the Research:

The scope of the study of this research paper is limited to the extent of legislative analysis of the facilitation of parole by the administrative competent authority in various states in India and an attempt is being made to examine the importance and judicial activism of one of the most important reformatory wing of correctional devices adopted by states (Parole) both at domestic and international level.

The study will specifically focus on the state of Madhya Pradesh in India. This will include a detailed analysis of the parole system as practiced by quasi-judicial authorities in the state.

The research will explore the legal and procedural aspects of parole as governed by state legislations, the relevant provisions under the Criminal Procedure Code (Now BNSS), and the Madhya Pradesh state-specific regulations. This will include through case laws examination of the role of quasi-judicial authorities in parole decision making.

The study will assess the impact of parole decisions made by quasi-judicial authorities on justice, fairness, and the protection of human rights. This will involve exploring the

extent to which parole grants contribute to the rehabilitation of offenders and their reintegration into society while also ensuring public safety.

1.5 Limitations:

As it is very difficult to collect data from jail authorities and the State of Madhya Pradesh has 55 districts and the data is being collected from the two largest jails in the state of Madhya Pradesh i.e. Bhopal and Jabalpur and from one Central Jail of Narsinghpur and one district Jail of Katni which would help the researcher to draw and inference and come to a finding.

The researcher has collected through questionnaire data of 98 prisoners of 4 jails of Bhopal, Narsinghpur, Katni and Jabalpur.

The researcher has collected through questionnaire data of 40 prison personnel from the state of Madhya Pradesh.

The researcher in this study has also collected data in the form of questionnaire from 322 respondents from different professions which to include students, individuals, academicians, advocates, researchers and judges across different states for analysing the general perspective among individuals for the law relating to parole.

The study focuses on the data collected from convicted prisoners and prison authorities in the State of Madhya Pradesh, and therefore, the findings may not be directly applicable to other states with different legal frameworks or parole processes. The conclusions may not fully represent the broader national context.

Obtaining complete and accurate data from prison authorities and government agencies may pose challenges. There may be limited access to case-specific information, parole records, or decision-making processes due to confidentiality or administrative barriers.

The study relies on the analysis of parole decisions made by quasi-judicial authorities, which may be influenced by subjective factors such as political pressures, individual biases, or community sentiments. These factors are difficult to quantify and may limit the objectivity of the analysis.

Despite these limitations, the study will provide valuable insights into the functioning of quasi-judicial authorities in parole decisions and the implications for justice and rehabilitation in Madhya Pradesh.

1.6 Research Questions:

1. Whether parole is an effective therapeutic technique for the treatment of criminals?
2. Is there need to amend/revise the state rules on parole to maintain the balance between parole and security of society?
3. Whether the competent authority is acting in good faith while deciding the application of parole?
4. Whether the state method of surveillance on the parolee is appropriate to record the activities of the offender against the conditions imposed while releasing the criminal on parole?
5. What are the recourses available to the prisoner against the decision of the competent authority while exercising its quasi-judicial function?
6. Whether the judicial response and legislative measures appropriate over the issue relating to parole?

1.7 Methodology

The study follows a qualitative and descriptive research design. The study is empirical in which data is collected from the respondents through Interview/Questionnaire methods. This approach is chosen to critically analyse the process, criteria, and implications of the grant of parole by quasi-judicial authorities, specifically focusing on Madhya Pradesh. The research aims to provide a detailed understanding of how parole is granted, the legal framework involved with the challenges faced by the convicted prisoners and prison administration.

Universe and Sample Size

- **Universe (Population):** The broader population of this study includes all convicted prisoners in the state of Madhya Pradesh who have applied for parole,

prison personnel's and quasi-judicial authorities such as Director General of Prisons, Superintendent of Jails who are involved in the process of the grant of parole.

- **Sample Size:** Given the qualitative nature of the research, a purposive (non-probability) sampling technique will be used to select:
 - **Convicted Prisoners:** A sample of 98 convicted prisoners who have applied for parole before the authorities for the grant of Parole.
 - **Prison Personnel and quasi-Judicial Authorities.** A sample of 40 (members of the correctional services, Superintendent of Jails and experts involved in parole decisions).
 - **Individuals:** A sample of 322 (students, individuals, academicians, advocates, researchers and judges for analysing the general perspective among individuals for the law relating to parole).

The sample size is small, allowing for an in-depth analysis of the procedure as to how parole is granted.

Various Articles and Books have been used from library references and various web sources. Further other relevant scholarly opinions have been taken from various international journal. The data for the study will be analysed from the existing documents including the reports on various committees in jail reforms, the documents officially published by the prison department, statutes on Prison and Prison Administration, interviews with quasi-judicial authorities and

Data from interviews and case studies will be analysed thematically. This will involve identifying recurring themes, patterns, and insights about the parole granting process, the factors influencing decisions, and the role of quasi-judicial authorities.

Legal documents, case records, and secondary sources will be analysed using content analysis to identify the legal provisions, guidelines, and criteria applied in the granting of parole.

The identities of participants, especially prisoners, will be kept confidential. Interviews and case studies will be anonymized to protect the privacy of individuals involved.

A purposive sampling technique will be employed to select parole cases that are representative of the parole granting process in Madhya Pradesh.

1.8 Literature Review:

The issue of psycho-social problems of women convicts in central prisons has attracted the attention of scholars from different areas like sociology, psychology, social work, criminology, law etc. In this area, adequate research has not much probed into by Indian as well as scholars from outside India. There is sufficient literature on crime, prisons and their administration etc., but not pertinent to quasi-judicial of role of administrative authorities and the judicial response to the same. Taking this point in a view a brief account on the review of literature is present in this research.

1. Sutherland and Cressey, Principles of Criminology

In this text the authors have into account definition, conditions, selections, supervision and position in the states. According to him "parole is the act of releasing or the status of being released from a penal or reformatory institution in which one has served a part of his maximum sentence, on condition of maintaining good behaviour and remaining in the custody and under the guidance of the institution or some other agency approved by the state until a final discharge is granted. (Sutherland & Cressey, 1968)

2. Ahmed Siddique, Criminology: Problems & Perspectives.

Professor Siddique in his book Criminology: Problems & Perspectives also deals with parole under the chapter 'Therapeutic Approach-Probation & Other Flexible Techniques'. He deals parole, from Indian point of view and points out that parole is governed by the Act, Rules and Manuals which vary from State to State. He has also referred to certain studies and pointed out that the number of parolees is less but it is charitably granted to those who apply for it. (Ahmed Siddique, 1997)

3. Barnes and Teeters, *New horizons in Criminology*, Barnes and Teeter in his book *new horizons in Criminology* has devoted one chapter on parole. He has taken into account, the nature of parole, origin of parole, the mechanics of parole, parole selection, supervision of parolees etc. According to them "Parole is a form of correctional release granted after prisoner has served a portion of his sentence, in a correctional institution. (Barnes and Teeters, 1966)

4. N.K. Chakrabarti, *Institutional Corrections*

The author in this book has dealt with Institutional Corrections (in the Administration of Criminal Justice) deals with parole under the Chapter Social Rehabilitation of Prisoners. According to him "Parole is a form of conditional release granted to the prisoners after they have served a portion of their sentences. The conditional release involves a service which includes the control, assistance and guidance, the offenders need as they serve the remainder of their sentences within the free community. (Chakrabarti, 1999)

5. V.V. Devasia & Leelamma Devasia; *Criminology Victimology and corrections*.

The author's in this book *Criminology Victimology and Corrections* also deal with parole under the chapter Parole: Philosophy and Operation. He has taken into account the objectives of parole, origin of parole, essentials of parole system. Parole Board, parole hearing. (V.V. Devasia & Leelamma Devasia 1992)

6. R. N. Chowdhury in his book "*Indian Prison Laws and Correction of Prisoners*" by provides an insight into the laws governing prisons in India and the correctional measures applied to prisoners. It provides an in-depth examination of the legal framework surrounding prisons, the treatment of prisoners, and the rehabilitation process within the Indian context. (Chowdhury, 2002)

7. C. Kumkum in her book "*The Indian Jail – A Contemporary Document*" offers a detailed critique of the Indian prison system and its failures. By highlighting issues such as overcrowding, poor conditions, and the lack of effective rehabilitation, the book calls for significant changes in the approach to incarceration in India. It

advocates for a shift towards a reformative and rehabilitative prison system, one that respects the human rights of prisoners and provides them with the opportunities for rehabilitation and reintegration into society. (Kumkum, 1983)

8. S.N. Sharma & Ambika; Judicial Response to Parole Shimla Law Journal

The Article on "Judicial response to parole", points out cases relating to grant of parole, refusal of parole and under the preventive detention laws. According to him "Parole means the release of prisoner temporarily for a special purpose before the expiry of the sentence and the prisoner promises good behavior and return to Jail. (S.N. Sharma & Ambika, 2006)

9. S.P. Srivastava, Parole: The Indian Perspective, Indian Journal of Criminology and Criminalistics.

The author in his article Parole: The Indian Perspective, points out the historical backdrop, the recent position, the recent amendment, criticism and suggestions. According to him "Parole means a temporary release of prisoners during the period of their incarceration, akin to what is 'furlough', 'ticket of leave' or 'emergency release' elsewhere. (S.P. Srivastava, 1987)

10. Mohammad Najmi, The Role of Parole: Parole System at Glance, the author in this article The Role of Parole: Parole System at Glance, deals with meaning, conditions, preparation, selection, supervision, and advantages of parole. According to him "Parole is a form of conditional release granted after a prisoner has served a portion of his sentence in a correctional institution. It presupposes careful selection, adequate preparation for release and some type of supervision in the community for a sustained period of time" (Mohammad Najmi, 1968)

11. The Report of the Indian Jail Committee (1919-20-Vol.I) constituted by the then Government of India, chaired by Sir Alexander G. Cardew elaborately review the

prison and correction services and gave its recommendations. (The Report of the Indian Jail Committee, 1920)

12. Report of the All India Jail Manual Committee (1957-59) which was constituted by Government of India to examine the Prisons Act and other relevant Central laws and suggesting any Central legislation; abolition of short-term sentences and provision of alternative measures. The committee observed that the principal job of a correctional personnel is re-education and only when the personnel are contented and happy they will put in their best efforts. (Report of the All India Jail Manual Committee, 1959)
13. The Report of the All India Committee on Jail Reforms (1980-83) by a committee headed by Justice A.N. Mullah was constituted by Government of India to study all aspects of Prison in India. The committee recommended an amendment to section 53 of the Indian Penal Code 1860 to include community service as an alternative to imprisonment. With regard to aftercare of convicts the committee observed that the most critical period of his life is that which immediately follows his release from prison. Aftercare service to prisoners in the form of counselling, legal 79 Review of Literature assistance, material assistance, and educating them about their role in society are the requisites, suggested by the committee. (The Report of the All India Committee on Jail Reforms, 1983)
14. Report of the Working Group on Prisons in the Country (1972-73) prepared by the Ministry of Home Affairs, recommended that there shall be close coordination between Probation and other wings of criminal justice system and imprisonment be limited to habituals, incorrigibles and dangerous criminals. (Report of the Working Group on Prisons in the Country, 1973)
15. Karp and Clear in 'What is Community Justice- Case Studies Of Restorative Justice And Community Supervision' describes case studies like building partnership with voluntary organisations; expanding the clients to victims; focussing to neighbourhood; preventing problems and community service, since community justice is a new approach. (Karp and Clear 2002)

16. Abadinsky (1997) in his book 'Probation and Parole - Theory and Practice' describes the role of Probation Officer with regard to Probation and Parole. The author writes about the special programmes related to probation like community service, restitution, intermediate punishments like intensive probation, electronic monitoring and boot camps. He also states that the cost of probation is less. Social case work, reality therapy and behaviour modification also should be adopted. (Abadinsky, 1997)
17. Vidya Bhushan in his book "Prison Administration in India: With Special Reference to Uttar Pradesh" has described the role of parole officers that they are to be skilled in social casework, including the knowledge of ways of influencing human behaviour and a personality giving him ready facility in the use of such knowledge. (Vidya Bhushan, 1970)
18. Amarendra Mohanty, Narayan Hazary in their book "Indian Prison Systems" have explained the historical evolution of the prison system in India from the ancient period till the birth of the modern prison system in India. The authors have recommended for the release of the prisoner on probation and parole. (Mohanty & Hazary, 1990)
19. Fox and Stinchcomb in 'Introduction to correction' describe the corrections based upon criminological thought as physiological approach; psychological approach; and sociological approach. Community-based alternatives as home confinement, electronic monitoring and probation service are of recent origin. (Fox & Stinchcomb 1972)
20. Chadha (1983) in his work 'The Indian Jail - a contemporary document' gives insights into the deplorable conditions in Indian Jails; which breeds criminals. (Chadha 1983)
21. The Alabama Prison in their "GUIDEBOOK TO Parole in Alabama" gives insights of the parole systems in Alabama refers to the how the system of parole works different in different states with reference to the Parole Bureau. (Alabama, 2019)

22. Edith N. Burleigh in his work “Probation and Parole. Report of the Committee of the American Prison Association” gives insights about the minimum standards of probation and parole in U.S. prisons and also refers to the Article VII of the Declaration of Principles there is a plea for "special training, as well as high qualities of head and heart to make a good prison or reformatory officer.” (Edith N. Burleigh, 1921)
23. Amos W. Butler in his work “What Prisoners Should Be Eligible to Parole and What Considerations Should Govern the Granting of It?” describes the purpose of imprisonment is no longer that of retribution, or of retaliation. Nor to believe that punishment will prevent others from committing a similar offence. The aim of prison discipline is the reformation of criminals, not the infliction of vindictive sufferings. (Butler ,1922)
24. Nicole D. Porter in his work “Successes in Criminal Legal Reforms, 2021” describes about the United States leading the world in incarceration with correctional control. The author also refers to the legal reform done in different states to reduce prison admissions and recalibrated punishments to limit extreme sentencing practices. (Porter, 2021)
25. Edgar A. Doll in his work “Some Principles of Correctional Treatment” gives insights as to the preparation of parole and describes the principles of penology that by a system of promotions, transfers and pre-parole assignments we can reduce parole from a social gamble to a social investment. The author in his work stated that each man under imprisonment is a correctional problem, more or less, to be treated and trained during his imprisonment in expectation of his ultimate release. (Doll, 1927)
26. Edward Lindsey in his work “Historical Sketch of the Indeterminate Sentence and Parole System” refers to the difference between parole, probation and indeterminate sentence and describes that in 1922 how many states have statutes for parole and indeterminate sentence. (Lindsey, 1925)
27. Ashley Nellis in his work “PROBATION AND PAROLE” gives insights for the racial and ethnic disparities are a substantial feature of the American prison system.

Systemic causes range from a history of racial and ethnic subordination to ongoing police tactics that unfairly ensnare people of colour into the system, and also include charging and sentencing practices that create stiffer punishments for people of colour. (Nellis, 2023)

28. Sridip S. Nambiar in his article “Premature Release of Prisoners: Need for a Comprehensive Rehabilitation Policy in India” describe and analyse the gaps in the system in place for premature release of prisoners in the background of demand for a rehabilitation centric mechanism. The author his work refers to the release of Sanjay Dutt prior to the completion of term on good conduct but denial of the bail and parole to A. G. Perarivalan, one of the life convicts in the Rajiv Gandhi assassination case for 25 years. (Nambiar, 2014)
29. K. I. Vibhute in his article “Right to Human Dignity of Convict Under Shadow of Death And Freedoms Behind The Bars In India: A Reflective Perception” argues that the ultimate goal of incarceration should be reform and rehabilitation rather than punishment alone. By focusing on human dignity, Indian society can work toward a system that reintegrates offenders back into society, promoting justice rather than perpetuating cycles of violence and inhumanity. (Vibhute, 2016)
30. Michael Tonry in his article “From Policing to Parole” explores the significant growth of the American criminal justice system over the past few decades. He analyzes how policing, incarceration, and parole practices have evolved, often in response to crime rates and political pressures, rather than to thoughtful reform. (Tonry, 2017)
31. Sushree Saswati Mishra in her article “REVISITING THE CONCEPT OF PAROLE SYSTEM IN INDIA: CRITICAL ANALYSIS” has analysed the system of parole in India, misuse of parole and very importantly the effect of Covid-19 pandemic and various High court and Hon’ble Supreme Court decision on Parole orders. (Mishra, 2022)
32. Andrews, D. A., Bonta, J., & Hoge, R. D. in their articles argue for a psychological approach to the classification of offenders in the context of rehabilitation. They

emphasize that classification systems, which categorize offenders based on their risk and needs, can significantly influence the success of rehabilitation programs. The article proposes a more individualized approach to rehabilitation, which accounts for the psychological characteristics and personal history of each offender. (Andrews, et al., 1990)

33. Helen Leland Witmer in her article “The History, Theory and Results of Parole” in her article has discussed about the parole system in England with the early development of the prison system in England. The article likely addresses how parole was implemented in the United States and other countries, its goals of reducing prison populations, offering second chances to offenders, and the broader social impacts of parole. It also likely assesses the effectiveness of parole, looking at its successes, challenges, and the societal debates over its application—particularly regarding recidivism rates and the balance between rehabilitation and public safety. (Witmer, 1927)
34. Akraati Goswami in her article “Prison Reforms in India and Social Change: A Critical Analysis gives an insight as to the changed attitude of the society towards the views of punishment and to study the role of human rights in the shift of such attitude. She has analysed that reformation takes place either by probation or parole as steps to change prisoners. In her article she has given an insight as to the the system of parole is evolving in India with respect to the acceptance of people. With the development of the modern thinking of human rights protection the general public is accepting the benefits of the parole system in India. (Goswami, 2022)
35. J. Alex. Edmison in his article “ Parole failures and parole successes.” Has given an insight as to Who Are Eligible for Parole, and After What Portion of Their Sentences Have Been Served in the Institution, What Factors Do the Board Consider When Studying Parole Applications in Canada. (Edmison, 1966)
36. Hans Honey Khari, Dr. Vijaylaxmi Sharma, Dr. Abhinav Bhardwaj in their article “Understanding The Psychological Impact of Parole on Inmates and Their Families: A Study in The Indian Context” examines the concept of parole within the Indian Penal system, exploring its various facets through psychological, legal, and social

lenses. Our objective is to foster a comprehensive understanding of parole and its multilayered impacts on inmates, families, and society at large. (Khari et al., 2023)

37. Md. Imran Wahab in his article “Advocating Grant of Parole to Undertrial Prisoners through Legal Reforms: Protecting Human Rights and Alleviating Prison Overcrowding” has given as insight that though there are legal instruments like the Bharatiya Nagarik Suraksha Sanhita, 2023, which offer some degree of protection, UTPs often find themselves ensnared in enduring cycles of incarceration. To effectively tackle these pressing issues, reforms in parole, bail, and expedited judicial processes are imperative. (Wahab, 2024)
38. Oishik Bhattacharya, in his article “A Comparative Study of The Parole System: India and The United Kingdom” has evaluated the shortcomings of the parole system in India as well as how the British experience may be taken into account and implemented into Indian Law to ensure the success of the Parole system. The author has recommended to implement the Supreme Courts directions in the case of Jayant Veerappa Shetty v. The State of Maharashtra and others 1986 (1) Bom CR 311 of having a uniform application of parole laws for the nation. (Bhattacharya, 2022)
39. Asfaq v. State of Rajasthan, The Supreme Court of India, in its judgment, dealt with the application of the law related to parole and addressed the need for ensuring a fair and transparent procedure for granting parole. The Court emphasized that parole is an important part of the rehabilitation process and should not be denied without valid and reasonable grounds. (Asfaq vs The State of Rajasthan, 2017)
40. Avtar Singh V. State of Haryana, in this case apex court underlined that the objective of imprisonment should be rehabilitation rather than just punishment. Parole is a critical element of the correctional and reformatory justice system, which allows prisoners to reintegrate into society before the completion of their entire sentence. A denial of parole, without proper reasoning, obstructs the reformatory justice process. (Avtar Singh V. State of Haryana, 2002)

41. *Vikas Yadav v. State of U.P.*, The Supreme Court has reinforced the principles of fairness, transparency, and justice in parole decisions. The Court emphasized that while parole is not an absolute right, it must be considered fairly and reasonably. Authorities must ensure that their decisions are grounded in the law and take into account the rehabilitative purpose of the criminal justice system. (*Vikas Yadav v. State of U.P.*, 2016)
42. *Vikas Chaudhary v State*, The Supreme Court held that Trial Court has no jurisdiction to sentence the accused to life imprisonment for the remainder of their life, or life imprisonment without entitlement to parole or remission for a fixed term, in serious crimes which carry the death penalty apart from life sentence as a sentencing option. (*Vikas Chaudhary v State*, 2023)
43. *Sunil Fulchand Shah v. Union of India* the apex court emphasizes the significance of parole as a tool for rehabilitation within the criminal justice system. It calls for a more structured and transparent process in granting parole, ensuring that prisoners' rights to rehabilitation and reintegration are respected. The case also reinforces the role of judicial review in overseeing parole decisions to prevent arbitrary rejections. (*Sunil Fulchand Shah v. Union of India*, 2000)
44. *Smt. Poonam Lata vs. M.L. Wadhawan & Ors.* is a landmark case that contributed to the understanding of parole as a constitutional right and reinforced the importance of a fair and transparent process in parole decisions. The judgment stressed that parole must be considered not only as a matter of discretion but as a legal right aimed at the rehabilitation of prisoners. (*Smt. Poonam Lata vs. M.L. Wadhawan & Ors.*, 1987)
45. *Budhi v. State of Rajasthan* is an important decision in the context of parole laws in India, specifically addressing the conditions under which parole can be granted or denied to prisoners. (*Budhi v. State of Rajasthan & Ors.*, 2005)
46. *Gori Shankar v. State of M.P.* the High Court deals with issues related to parole, specifically concerning the denial of parole to a prisoner and the constitutional

implications involved in such a denial. (Gori Shankar Vs. State of M.P. and Ors, 2009)

47. Shobha Bai v. State of M.P. 2012 SCC Online MP 846 the court observed that as the parole application was not decided on time. The single bench of the High Court directed the state to decide the pending application as expeditiously as possible and preferably within a week. (Shobha Bai v. State of M.P., 2012)

48. Vikas Bharti v. State of M.P. the High Court of Madhya Pradesh while deciding a petition in which the petitioner application was rejected on a non-speaking order. The High Court observed that the order suffers from the voice of non-application of mind and being a cryptic order cannot be sustained. The court while setting aside the order directed the respondents to decide the application of parole as per law. (Vikas Bharti v. State of M.P., 2019)

49. Om Prakash v State of Madhya Pradesh the High Court of Madhya Pradesh directed to the authorities to consider his application as per M.P. Prisoners Leave Rules of 1989 within a period of 30 days. (Om Prakash v State of Madhya Pradesh, 2003)

50. Maru Ram, Bhiwana Ram etc. vs. Union of India wherein the Supreme Court held that Section 433-A (now 475 BNSS) does not forbid parole or other release within the 14 years span. (Maru Ram, Bhiwana Ram etc. vs. Union of India, 1980)

1.9 Research Gap

There is a lack of consistent, empirical research on how parole decisions are made. Restorative justice, a model that focuses on repairing harm and restoring relationships between offenders, victims, and communities, is under-researched in the context of parole systems.

The specific role of quasi-judicial authorities in the grant of parole, particularly in the state of Madhya Pradesh, has been largely underexplored. The official website also of the prison authorities does not provide as to information for parole. Also, there is considerable literature on parole policies and the functioning of parole boards in India, the influence and decision-making processes of quasi-judicial authorities, such as district magistrates and other administrative bodies, remain inadequately studied. There is limited research into how the discretion exercised by quasi-judicial authorities impacts the fairness of parole decisions, potentially leading to arbitrary or biased decision-making.

The recent criminal law legislations have also adopted the use of technology in the administration of criminal justice system but there is limited research as how the technological advancement may be used in the prison administration. There is insufficient exploration of the legal and ethical challenges posed by the involvement of quasi-judicial authorities in parole decisions, particularly in the context of India's legal framework.

By addressing these research gaps, a study on the critical analysis of parole grants by quasi-judicial authorities in Madhya Pradesh could significantly contribute to the understanding of parole systems in India, the effectiveness of quasi-judicial decision-making, and potential areas for reform.

CHAPTER 2

"PAROLE: A CORRECTIONAL INSTRUMENT FOR SOCIAL REHABILITATION OF PRISONERS"

2. Introduction to prison system

In civilised societies, punishment must not diminish the worth of people in both body and spirit. The rule of law has acknowledged the right of poor defendants to humane treatment and treatment that complies with the fundamental principles of justice and humanity in a number of instances. The basis for global liberty, justice, and peace is the recognition of the inherent worth, equality, and anti-alienation rights of every member of society (Puranik, 1992). It has always been debatable whether prisons are effective as a facility for the rehabilitation of offenders and their preparation for normal life. According to Dr. Paripurnanand Verma, "evil doers find themselves in perfect harmony inside the house of evils" because "a prison symbolises evil." (Verma, 1963)

This claim, however, appears to be an oversimplification of the facts because it does not apply to all types of criminals. There are many criminals who are otherwise well-behaved and members of respectable social classes but who turn to crime as a result of momentary impulsivity, provocation, or environmental factors. Another category of prisoners must endure the hardships of prison life despite being otherwise innocent because of a travesty of justice. Such people obviously find it difficult to adapt to their surroundings in prison and find life there to be extremely painful and repulsive. By instilling a desire for crime and criminality in them, the real goal of locking up criminals is to turn them into upright, law-abiding citizens.

However, in reality, prison officials use coercion and coercive methods to try and reform inmate which may result in the behaviour of the inmate but only lasts as long as they are incarcerated, and as soon as they are released, they frequently return to a life of crime. Because of this, the modern trend is to place more emphasis on the inmates' psychiatric

conditions in order to help them adjust to normal community life. The strategies of probation and parole can be used to accomplish this goal. The sincerity, devotion, and tact of prison staff members also contribute significantly to the rehabilitation process of offenders. If the issue of overcrowding in western prisons stems from that society's permissiveness, loose marriage ties, and endearing values of violence and sex taboos, Indian prisons are no better because economic conditions prevent the development of better methods of prison management. As a result, restructuring of prisons in India requires top priority.

Penologists from around the world have always been interested in the prison issue. Prisonization's primary goal is unquestionably negative in that it seeks to make society's citizens dislike prison life in order to deter people from engaging in behaviour that could land them behind bars. Donald Taft expressed his opinions on prisons, saying that they are intentionally designed to offer unpleasant, forced isolation from society. According to Taft, a prison is defined by strict security measures, strict discipline, and the provision of the bare necessities. (William Howard Taft Was the 27th President of the United States and Later the 10th Chief Justice of the United States)

The majority of prisons in India are in poor condition, and many offenders have been imprisoned for years without being given a chance to defend themselves. In addition, prisoners suffer in jails due to a lack of adequate medical care, inhumane treatment of inmates, solitary confinement, the use of handcuffs and fetters while being tried, overcrowding in prisons, inmate crime, the absence of adequate female-only prisons, and other factors. There has been an increase in awareness of the need for prison reform over the last ten years. It is now acknowledged that prison justice must incorporate a rehabilitative approach and a reformatory philosophy. The situation of prisoners is not improving to the expected extent despite the adoption of numerous legislative and judicial measures. A thorough and critical examination of prison reform as a whole is warranted in this situation. The current study is an effort in this direction to comprehend the necessity of prison reforms, to pinpoint the issue, the constraints, and its operational shortcomings, and to provide pertinent recommendations for improving and humanising the prison system.

2.1 Theories relating to imprisonment

Prisoners were merely housed in the prison during the ancient and mediaeval eras while they awaited trial. They received the punishments outside of a prison. In the modern era, imprisonment replaced other forms of punishment as the main type. The criminal justice system has changed as a result of civilizational advancement. (Balasubrahmanyam, 2005). The following are the key theories surrounding imprisonment:

2.1.1 Theory of vindication

The restoration or reassertion of the values that the law protected but which the offender has destroyed is all that is meant by vindication of law, as implied in the imposition of punishment for wrongdoing. It places an abstract emphasis on the value itself as well as the law that upholds it and forbids its destruction. Purely objectively, the mistake must be made up for by adding yet another drawback (Datir, 1978). The foundation of this theory may lie in the sacrifice that primitive and archaic man brought to placate the Gods who had been offended by the evildoer. Few philosophers, particularly in the hypothetical case of a political island society that wishes to disintegrate with mutual consent, have espoused vindication as strongly as German philosopher Kant (Sangar, 1967).

2.1.2 Theory of retribution

The oldest theory is that of retribution. Retaliation for harm is frequently asserted to be a universal and natural impulse. According to the retributive theory, punishment is acceptable as a means in and of itself, regardless of whether it has a deterrent or reformatory impact on the offender or others. When we state that according to this theory, punishment is meted out as a result of a crime being committed, we mean that the commission of the crime serves as the justification for punishment. Kant concurs that the punishment must be compatible with the offence in some way. In other words, similar levels of incarceration should be given to similar crimes. (Mohanty, 1990)

2.1.3 Theory of penitence

The idea that a lawbreaker needs the chance to reconcile with himself, to examine his soul, and to come to terms with his creator was at the centre of the penitentiary movement in Pennsylvania and New York in the 19th century. Based on Howard's cellular system, the penitence system that became known as the separate, solitary, or Pennsylvania system went above and beyond by mandating the strict separation of the prisoners during the day

as well as at night. This system's reforming qualities were believed to be found in absolute purity, religious instruction, and quiet reflection. (Mohanty, 1990)

2.1.4 Theory of neutralization

Sometimes, incarceration is justified by another reason. It is argued that by locking a man up, society physically separates him from its embrace and renders him unable to commit additional crimes while he is incarcerated (Mahaworker, 2006).

2.1.5 Theory of deterrence

The principal developer of this theory is J. Bentham. He claims that the main goal of punishment should be general prevention in order to justify it. Punishment would be pointless if we could view an offence as an isolated fact, the likes of which would never occur again. It would merely involve combining evils. However, when we take into account that an unpunished crime leaves the door open to crime for everyone who may have the same motivations and opportunities for engaging in it, not just the original offender, we perceive that the punishment meted out to the individual becomes a source of security for all. When a punishment is seen not as an act of wrath or vengeance against a guilty or unfortunate person who has given in to cunning inclinations but rather as an indispensable sacrifice to the common safety, it is elevated to the first rank of benefits and transcends all other forms of charitable sentiment. The deterrent effect is the ability to prevent future offences by threatening or actually punishing potential offenders. "Punishment is before all things deterrent and the chief end of the law of crime is to make the evil doer an example and a warning to all who are likeminded with him," said Salmond (1947). A number of variables, including social structure and value systems, population, type of law, form and severity of the prescribed penalty, likelihood of apprehension, and individual knowledge of the law and punishment, affect a particular type of punishment's deterrent effect (Ghosh, 1992). This is the notion that the threat of prison deters criminal activity and motivates people to abide by social norms. Until they decide to give up their life of crime, longer, harsher, and more frequent prison sentences must be given to those who are not so influenced.

2.1.6 Theory of reformation

The issue of crime and criminals was approached from a novel perspective. Individualised care has emerged as the cornerstone of offender's rehabilitation. The reformatory theory of incarceration gave voice to this viewpoint. According to the

reformatory school of thought on criminology, punishment is only acceptable if it focuses on the present rather than the past. It should be viewed as opening a new account rather than closing an old one. Therefore, the proponents of this viewpoint defend imprisonment not just as a means of isolating criminals and removing them from society, but also as a means of bringing about a change in their mental outlook through efficient reformation measures taken during the course of their sentence. The reformers support treating prisoners humanely inside of prison facilities. It also implies that after being released from the institution, inmates should receive the proper training to help them adjust to life in society. (Paranjape, 2001)

2.2 Historical evolution of prison system upto the period of Indian independence

In India, the idea of the prison and social reformation has a long and illustrious history. Since the beginning of time, this issue has received adequate attention, and significant steps have been taken to address the prisoner problem. The following is a brief history of the Indian penal system:

2.2.1 Prison systems in ancient India

Jails have a long history in our nation, dating back to the Epic age. When Bharata met Rama in the Ramayana at Chitrakuta, the latter asked in-depth questions about the polity and welfare of the people of Ayodhya and made sure to inquire about the situation in the city's jail. Even in the Mahabharata, prison is mentioned. There were eighteen significant state officials during that time in mythology, and "kamyadhyrkrkr" was the head of the jail institution (karagriha). The statement "(the King) should have all the prisons built on the royal highway, where the suffering and mutilated evil doers can be seen" is found in Manusmriti. There were also horrifying punishments like mutilations and feeding to animals. In our nation, people have been imprisoned (in dungeons and cellars) to keep them hidden while frequently awaiting other penalties like exile, ostracism, and death. This includes the imprisonment of Krishna's parents in a dungeon in Mathura, the city where Krishna was born.

The jail where Ajatasatru imprisoned his father Bimbisara has been discovered by the Archaeological Survey of India in Rajgriha, the capital of Magadha (modern-day Bihar). According to legend, the pre-Buddhist prisons were very harsh. The prisoners were kept in this location under heavy loads and in chains. In these prisons, whipping was a daily occurrence. The writings of Huiyen Tsang and Fa-Hien included an account of Ashoka's

Naraka (hell). Prisoner treatment was not polished during this time. Old forts and castles were used as regular prisons during the Muslim era. Compared to the prisons before Buddhism, these ones weren't as brutal. The administration of justice was not one of the responsibilities of the state during the Vedic period, which is nearly a thousand years earlier than the age of Manu. Crimes like murder, theft, and adultery are mentioned, but there is no evidence that the king or another official acting in that capacity rendered any judicial decisions in either civil or criminal cases. Sabhapathi of the later Vedic period may have served as a judge, according to some critics. But it is impossible to rule out his role as governor. Usually, the party who was wronged had to act on his own to seek redress. It was common practise during the Vedic era for the plaintiff to disparage the defendant or the accused, sitting outside of the latter's home and refusing to let him leave until his claim was resolved or the wrong was made right (Altekar, 1958).

The concept of the divine cosmic order was present during the Rig Vedic period. Riti, the regularity of the universal process, served as the primary foundation for law, and when it was practical, the Sabha, or popular village assembly, rather than the king, would attempt to mediate disputes. This supports the theory that there was no prison during the Vedic era; instead, the accused was essentially imprisoned in his own home until he was able to make good on his promise to the plaintiff. The Dharmasutras and the Dharmashastras—of which the earliest is that of Manu and other significant dharmashastras are those of Yajnavalkya, Vishnu, and Narada—show us a judiciary that is more or less fully formed and well-developed. In ancient India, law or dharma was based on Shruthi's and Smrithi's, not laws passed by the legislature. Shruthi from the Vedic literature is much more revered than Smrithi because it is heard and was thought to have been directly revealed to its authors. The post-Vedic Smrithi (Remembrance) literatures included sutras and shastras with a religious focus and were founded on custom that had universal validity and authority. Instead of being imposed by state force, it was enforced by social acceptance or the fear of hell. It should be kept in mind that changes in social customs and practises affected how the Dharma was practised. It was the king's duty to punish the wrongdoers because he was in charge. He would go to hell if he failed to discharge it. We hardly ever encounter the words "Prison," "Jail," or "Jailer" in these two categories of literature, namely sutras and shastras (Singh, 1979).

The early prisons in India served only as detention facilities where an offender was held pending trial, judgement, and execution of the ruling. The foundation of ancient Indian

society was laid out by Manu and explained by Yajnavalkya, Kautilya, and others (Bhushan, 1953). The imprisonment was the mildest form of punishment known to be used frequently in ancient Indian criminology, out of various corporal punishments such as branding, hanging, mutilation, and death. Corporal punishment was advocated in Hindu scriptures and was one of the standard forms of punishment used in the criminal justice system. To isolate the wrongdoer from society, he was sent to prison. The main goal of imprisonment was to keep bad people out of society so they wouldn't defile the other members of the social order (Upadva, 1978). These prisons were completely dark, cramped, cool, and damp, as well as unlit and unheated. There was no suitable sanitation setup, and there was no way to provide a place for people to live (Prakash, 1976b).

Even though Indian law provided scant information about prison life, historical accounts still painted a clear picture after the information's availability was examined. A few Smrithi authors provided details about prison. According to Yajnavalkya's account, a person who helped a prisoner escape was subject to the death penalty, which is hanging. Kautilya advised building a jail in the nation's capital with separate quarters for men and women. He has spoken about the issues affecting prisoners' welfare and daily lives. He believes that prisoners who pay a fine, receive mild corporal punishment, or promise to work for social upliftment should be released from jail every fifth day. On the occasion of the birth of a prince or the coronation of a royal heir, he has also proposed a general amnesty. According to Kautilya, amnesty was appropriate during social festivals because it would attract others' attention. The birthday of the ruling monarch, who visits the prison, elderly inmates, sick inmates, or orphans undergoing incarceration, was the third occasion for granting prisoners citizenship. They were permitted to leave the prison grounds and resume their lives as free, law-abiding citizens. Kautilya goes on to describe the responsibilities of the jailer, who constantly monitors the inmates' movements and the smooth operation of the prison administration. If a prisoner accidentally leaves his cell, he is fined Rs. 24 and the warden who is conspiring with him is fined twice as much. A fine of Rs. 500 is imposed by the higher authority if the warden disturbs prison life. Kautilya has written extensively about prison life and believes that the prisoner who escapes after destroying the prison walls should be executed. This demonstrates how vigilant and alert the jail's administration, known as Bandhanagaradhyaksa, was, ensuring that no evil deed escaped his notice.

2.2.2 Prison system in medieval India

Mediaeval Muslim rulers in India made very few, if any, attempts to alter the way justice was administered on a daily basis because the legal system was similar to that of ancient India. The main sources of law and the nature of law during the Mughal era were the Quran. The crimes were broken down into three categories: (1) crimes against god, (2) crimes against the state, and (3) crimes against private individuals. The four classes of punishments for these offences were Hadd, Tazir, Quisas, and Tashir. These penalties ranged from fines and forfeitures to humiliations, exile, whipping, mutilation of offending limbs, execution, and other corporal punishments. They also included fines and confiscations, forfeitures of rank and titles, and execution. For common criminals, imprisonment was not reinstated as a form of punishment.

It was primarily employed as a means of detention. The criminals were housed in fortresses spread throughout the nation while they awaited trial and punishment. In Mughal India, there were three noble prisons. The first one took place in Gwalior, the second in Ranthambore, and the third in Rohtas. Criminals who were given the death penalty were typically transported to Ranthambore Fort. Two months after they had survived there, they perished there. The Gwalior fort was only for the disrespectful nobility. Those nobles who were sentenced to life in prison were sent to Rohtas, where very few people ever return. Princesses with royal blood were frequently sent here. The prisoners occasionally moved from one location to another. According to Islamic law, the quazis were tasked with visiting the prisons, investigating their conditions, and releasing inmates who displayed signs of contrition. The only saving grace for the prisoners was that they were given special permission to be released. These events included the birth of a crowned prince, the emperor or one of his sons recovering from a protracted illness, or sporadic royal visits to a prison fortress. Emperor Akbar commanded the release of all prisoners in the imperial dominions who had been imprisoned in the fortresses for serious offences on the occasion of the birth of prince Saleem. In 1638, Shahajahan ordered the release of prisoners to mark the celebration of the beloved princess Begum Sahid's recovery from illness. Typically, the prisoners were strapped with shackles around their necks and iron fetters on their feet when they were brought into the prison. The use of imprisonment as a form of punishment was uncommon even during the Maratha era. The most common forms of punishment were death, mutilation, and fines.

The Maratha period also continued the use of punishments in the same manner as the ancient and Mughal periods. However, the political prisoners received good care. Their ability to communicate with the outside world or even their own family members was restricted. They received first-rate food as well as a variety of comforts. People from lower castes, particularly adulterous women, were forced to work long hours and build forts, regardless of their caste. The quantity and quality of the prisoners' rations are based on their ranks. Therefore, imprisonment was not regarded as a form of punishment in ancient or mediaeval India.

Following is a summary of the primary characteristics of the prison system as it existed before the British era:

1. There were no jails or prisons as we know them today.
2. The internal operations of the prisons were not described.
3. There was no separate prison service, and courts were using prisoner sentences as food.
4. There were no guidelines for prison upkeep.

2.2.3 Prison system in British India and the modern prison system

The administrative structure changed with the arrival of British rule. The current legal system underwent minimal change at first. The regulating act, which established the Supreme Court in Calcutta to exercise all civil, criminal, admiralty, and ecclesiastical jurisdiction, was passed in 1773 and made clear the British Government's intention to impose English legal standards and oversee the administration of justice (Bhushan, 1953). Indians eventually became subject to English criminal law. Both the criminal procedure code and the Indian penal code were passed. The criminal procedure code outlined the process for bringing criminals to justice, while the Indian Penal Code (Now Bharatiya Nyaya Sanhita) defined each and every offence and specified a punishment for it. In India, imprisonment as a form of punishment was first used in 1773; however, it wasn't until 1860 that it was used consistently throughout the country (Madan, 1981).

The smallest component of the prison system is the jail. It serves as the permanent detention facility for those who have received a court-ordered prison sentence (Haikerwal, 1934). The modern definition of the institution of jail comes from the British, who also introduced it to India as part of their administration. Prior to the

establishment of jails, the penal system did not place any financial burden on the government. Although jails were built along British lines, the directors of the East India Company were reluctant to spend money on them. As a result, the prisoner received insufficient housing, food, clothing, and medical care. As a result, the conditions in British prisons were terrible. In Bengal, the North Western Provinces, Madras, and Bombay, 143 civil jails, 75 criminal jails, and 68 mixed jails with a total capacity for 75, 100 prisoners had been built during the rule of the East India Company (Devakar, 1985). When the British Parliament passed a law outlining the fundamentals of prison administration in 1824, reforms in prison administration started to garner public attention and have been a topic of discussion for more than 150 years (Orissa Jail Reforms, 1981).

In India, the first "famous committee" on prison reforms was established in 1836, and Lord Macaulay served on this committee. In its 1838 report, which was submitted, it criticised the lack of discipline and the corruption of the subordinate establishment. The committee's main recommendations were to build central jails with a maximum capacity of 1000 prisoners per facility, appoint inspector generals of prisons in each province, and ensure that each facility has enough space for prisoners to live comfortably (Kumkum, 1983).

As a result, the first central prison was built in Agra in 1846. In order to reduce the high death rates in prisons and to take other aspects of jail management into consideration, a second committee on jail reforms was established in 1864. The committee discovered that during the previous 10 years, there were at least 46,309 deaths inside prisons. It was determined that the overcrowding, poor ventilation, bad conservancy, bad drainage, inadequate clothing, sleeping on the floor, lack of personal hygiene, poor water, extraction of labour from unfit prisoners, and insufficient medical inspections may be the main causes of sickness and morality. In 1864, it was ordered that all provinces should appoint civil surgeons to serve as district jail superintendents. In 1877, the third jail committee was established. It looked at prison management in general. The fourth jail committee, which was appointed in 1888, recommended suppression of under trial prisoners and classification of prisoners as casual and habitual. It also recommended changes to the administration of prisons' classification and segregation policies. The majority of the committee's recommendations were included in the jail manuals of various provinces. The All-India committee, established in 1892, added to the committee's work. It conducted a fresh review of the jail system as a whole and

established new, intricate regulations. This committee's efforts led primarily to the prison act of 1894. As a result, all of the prisons in the nation are governed by the Prison Act of 1894. The use of whipping, solitary confinement, and the penal diet was restricted and regulated by the Act. It attempted to ensure consistency in the treatment of all offenders in jail by allowing for the classification of various offenders.

An important turning point in India's history of prison reforms occurred in the year 1897. The Reformatory Schools Act was passed in that year, and under its provisions, the courts were required to divert young offenders under the age of 15 from prison to reformatory schools. The Prisoner's Act of 1900 was subsequently passed. The government of India's appointment of the Alexander Cordew Commission in 1919–1920 was the first overt step towards jail reforms in the current context of psychology and prison administration. The commission actually served as a springboard for prison administration to catch up to the reformatory techniques being used in western nations. The commission travelled to many nations, including England and America. It also paid visits to prisons in India, the Andaman Islands, and Burma. The commission was established with the primary goal of modernising and overhauling the jail system's administration. The administration was found to be falling behind in its reformatory efforts. It lacked any humanitarian components, and the prisoner was not given the time and attention he needed for his personal and social rehabilitation. It was a depressing situation. The commission advocated for the creation of distinct institutions like the Borstal School to deal with juvenile delinquency. The accused and the found guilty were to be kept apart, and the adult convicts were to be divided into habitual and occasional offenders. It also took a serious look at the practise of sending prisoners to the Andaman Islands and recommended that it be stopped. Convicts would no longer be kept in isolation and instead share barracks with regular and sporadic inmates. All prisoners under the age of 29 were to receive care through an adult education programme, and libraries were to be established in every prison. The commission promoted the creation of a probation and parole system for both juvenile and adult offenders. Additionally, it suggested that the prisoners be given two sets of clothing and that the food quality be raised. The introduction of unofficial visitors to prisons was planned. Prison administrators and guards had to receive orientation in order to comprehend the reformatory approaches. Interviews and letter-writing with family members were both permitted for the prisoners.

The commission emphasised the notion that prisoner reform is the ultimate goal of incarceration and that prisoner rehabilitation is a social necessity.

The Montague Chelmsford Scheme led to the provincial takeover of jail administration in 1921. The executive councillor is still in charge of the department. The United Provinces government established a committee in 1929, with Khan Bahadur Hidayat Husain and Pandit Jagat Narain Mulla serving as members and Sir Louis Stuart serving as the committee's president. The committee criticised the disrespectful treatment of English prisoners and advocated for improved care for "Star class" and educated prisoners. The minister took charge of the prison system in 1935, and Mr. Rafi Ahmed Kidwai served as the first minister of the popular government of Congress from 1937 to 1939. For the purpose of enhancing prison administration, up to three committees were appointed during this brief period. Three Acts were passed by the United Province government in 1938. The first law, the United Provinces First Offenders Probation Act, allowed for the release of offenders under specific terms and based on their behaviour. Additionally, it was stated that prisoners under the age of 24 should be left under the supervision of a probation officer. The second Act dealt with the release of prisoners who had served 1/3 of their sentence in prison but had not received a serious crime sentence. The third Act, the Borstal Act, established institutions for those who had committed crimes before turning 21.

2.2.4 Policy of government on jail reforms and the law

Prisons serve as the custodians of prisoners and are a crucial component of the criminal justice system. Retribution and punitive methods of treatment of prisoners alone are neither relevant nor desirable to achieve the goal of reformation and rehabilitation of prison inmates, even though the purpose and justification of imprisonment is to protect the society against crime. Since the idea of "Correction, Reformation, and Rehabilitation" has gained prominence, it is now expected that prison administration will also serve as a correctional and curative facility. Our goal is to transform prisons into Correctional Centres. Therefore, our main focus is on reforming, correcting, and rehabilitating prisoners in order to produce better citizens who can live honourable and dignified lives once they are released. Crime is a product of compelling circumstances, an inappropriate setting, and emotional disturbance that causes impulsive behaviour.

Prison reforms are a significant component of the numerous reforms necessary for the law and justice system in India to operate effectively. The law and justice system will never function at its best unless steps are taken to modernise the management of Indian prisons. The physical makeup of prisons, conditions and treatment of inmates, training and reorientation of prison staff, modernization of prisons, and improved correctional administration and management are just a few of the issues that require urgent attention.

2.2.5 Evolution of prison administration and reforms

Following the arrival of freedom, India has entered a new phase of humane prison administration. Ideas about punishment and the purposes of prisons have evolved over time. The press, the parliament, and the judiciary have occasionally levelled harsh criticism at prison administration as a result of a growing awareness of the issue of crime and the proper treatment of offenders. Overcrowding in prisons, prolonged detention of prisoners awaiting trial, subpar living conditions, a lack of treatment programmes, and claims of an indifferent or even cruel attitude on the part of prison staff have all drawn criticism over the years (“Report of All India Committee on Jail Reforms,” 1983).

A few responsible prison administrators in our nation were also motivated by the shifting socioeconomic conditions of the nation after independence to launch some novel experiments on their own. Since these initiatives and efforts were sporadic and transient, it was difficult to determine how much of an overall impact they had on prison administration. In fact, without the necessary political will, no real prison reforms can ever be implemented. According to Mahatma Gandhi, "I believe that Governments have to begin the reform as an old and experienced prisoner... Humanitarian efforts should not replace those of the government. Currently, if a humanitarian attempted anything, he would first need to undo the damage done in prisons, where the atmosphere hardens criminal tendencies and innocent prisoners learn how to commit crimes covertly. I pray that humanitarian efforts will not be able to stop the injustice committed in prisons.” (Roy, 1989) It is therefore crucial to evaluate official attempts to change prison administration during the post-independence period in order to have a correct perspective on the development of prison reforms in Independent India.

2.3 Prison reforms done by the central government after independence

The Republic of India's Constitution includes prison administration in the State List (7th Schedule, State list, Item no 4). Because prison laws and regulations differ from state to

state, there is a lack of the crucial coordination. The Jail Manuals of the States of the Union, which were based on the antediluvian Prison Act of 1894. The Prison Act of 1894, were quickly found to be inadequate to deal with the new ideas and awareness of crime, criminals, and their treatment that had been rapidly expanding in the nation. It was strongly believed that any prison reforms implemented by our foreign laws were only sporadic, not uniform, and neither organically conceived. As a result, some board guidelines should be issued from the centre in order to coordinate the prison-reform initiatives of the various State Governments. Following independence, the decade from 1951 to 1960 saw a surge in support for prison reforms. While some State Governments appointed local committees to recommend prison reforms, the Government of India requested United Nations technical assistance. Leading American criminologist Dr. Walter C. Reckless travelled to India in 1951 and 1952 as a U.N. expert to offer advice on how to improve prison conditions there. Another important turning point in the history of prison reforms is his report, "Jail Administration in India." He argued for the conversion of prisons into centres for reformation and supported the construction of brand-new jails with specific purposes.

The removal of juvenile offenders from adult prisons, courts, and police cells, the development of whole-time probation and aftercare services, the establishment of reviewing boards for the selection of prisoners for premature release, the creation of an Advisers Committee, and the introduction of legal substitutes for short sentences are among the other important measures he recommended. A significant improvement in national coordination of correctional work occurred in 1952, the first time in 17 years that the Inspector General of Prisons held its eighth conference. The need for the revision of state jail manuals was reiterated at the conference held in Bombay (Dahir, 1978). Around this time, the first open prisons were established in Uttar Pradesh and a few other States, and in later years, Prison Welfare Officers were appointed in a number of States. During this decade, a few fresh prison concepts were introduced in the nation. Now, the prisoners could apply for parole and furlough. They received compensation, albeit meagre, for the work he completed. The living conditions of prisoners improved to some extent after the Panchayat system was implemented. In some States, prison training schools were established. The Probation of Offenders Act was passed in 1958, and whipping was outlawed in 1955 ("Report of All India Committee on Jail Reforms," 1983).

2.4 Steps taken by the central government to implement prison reforms as suggested at international level

The main international treaty for the defence of prisoners' rights is the International Covenant on Civil and Political Rights (ICCPR). Since India ratified the Covenant in 1979, it is required to implement its provisions into national legislation and government policy. According to the International Covenant on Economic, Social, and Cultural Rights (ICESR), prisoners are entitled to the best possible physical and mental health conditions. In addition to their civil and political rights, prisoners are also entitled to the so-called second generation of economic and social human rights as outlined in the ICESR. Five parts and 95 rules make up the earlier United Nations Standard Minimum Rules for the Treatment of Prisoners, 1955. The first section contains guidelines for general usage. There shall not be any "discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status," according to this statement. In addition, there is a critical need to respect the moral standards and religious beliefs of the group to which a prisoner belongs. The standard regulations take into account the separation of various prisoner categories. It suggests that men and women should be held in different facilities. Prisoners who are awaiting trial must be kept apart from those who have been found guilty. It also supports total segregation of those detained for crimes committed under civil law from those for crimes committed under criminal law.

The UN's Minimum Standard Rule also made it mandatory to house young and child prisoners separately from adult prisoners. The Basic Principles for the Treatment of Prisoners (UN 1990) and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment are subsequent UN directives. The standard minimum regulations on prison offences and punishment are very clear. No prisoner "shall be punished except after having been informed of the offences alleged against him/her and after having been afforded a proper opportunity to present his/her defence," according to the rules. It suggests that all "cruel" inhuman or degrading punishments, including corporal punishment and isolation in a dark cell, be outlawed entirely as a form of punishment and disciplinary action in jails. The All India Jail Manual committee was established by the Indian government in 1957 for the following reasons: (Devakar, 1985)

1. Creating an All India Skeleton Jail Manual; 2. Analysing the Prisons Act and other pertinent Central Laws; and 3. Proposing prison reform measures that could be adopted uniformly across the nation.

The All India Jail Manual Committee was formed, among others, with the then Inspector General of Prisons of Bombay, Madras, West Bengal, Uttar Pradesh, Punjab, and Kerala in order to that the problems unique to different parts of the country and the need for coordination by the Centre might be due emphasis. The 1957–1959 Committee studied crime and delinquency issues from a very progressive perspective and made the poignant observation that the solutions to these issues do not only lie in prisons but also in the larger socio-economic fields. It holds that neither increasing the deterrent power of punishment nor weakening and diluting the existing system of punishment can effectively address these issues. The committee wanted prisons to be converted into correctional facilities after realising the significance of Mahatma Gandhi's adage that "criminals should be treated as patients in hospitals and jails should be hospitals admitting such patients for treatment and cure." (Report of the All India Jail Manual Committee, 1959) One of the presumptions it made when drafting the Manual reflects its perspective on the primary goal of correctional administration: "The primary objective of punishment is reclamation and rehabilitation of the offender and this object will be faithfully implemented in the correctional institutions." (Report of the All India Jail Manual Committee, 1959). In 1960, the All India Jail Manual Committee provided a detailed report containing necessary principles for modernising prisons along with a Model Prison Manual as a general guideline for the States to update their antiquated Prison Manuals. This report was in line with this radical approach to the issues of crime and delinquency and to the primary objective of correctional administration.

2.5 Setting up of central bureau of correctional services in 1961

The establishment of the Central Bureau of Correctional Services in 1961 as a central technical advisory body with the broad goals of developing contemporary social defence policies and programmes, collecting factual data and statistics, exchanging information, providing professional training, conducting empirical research studies, and publishing its findings was another significant post-independence development in the administration of Indian prisons (Graycar & Grabosky, 2002). The Bureau operated under the Ministry of Home Affairs of the Government of India until 1964, when it was moved to the

Department of Social Security, which had just been established and is now the Ministry of Social Welfare. In 1975, it was reorganised as the National Institute of Social Defence, and its mandate was expanded to include preventive, corrective, and rehabilitative aspects of social defence, including the welfare of prisoners, prison administration and reforms, juvenile vagrancy, probation, beggary, social and moral hygiene, alcoholism, gambling, and drug addiction, among other issues. The Institute is still a part of the Ministry of Social Welfare and has been helpful in expanding its scope of social defence (Report of All India Committee on Jail Reforms, 1983).

However, the institute has not been able to play its proper role in some important areas of activity, such as the compilation of All India statistics on prisons, probation, and parole, due to factors outside of its control, namely the unwillingness of some State Governments to cooperate. Unfortunately, the spirit and enthusiasm with which the Central and State Governments undertook the task of prison reforms during the decade 1951–1960 did not last long, despite a few sporadic successes. The worthwhile recommendations of the committees that these Governments appointed were not effectively put into practice. An official committee described the overall state of the nation's prison administration as "depressing" even after the end of another decade (1961–70) due to official indifference and bureaucratic missteps.

2.6 Working group on prisons in 1972

In order to (i) examine the physical and administrative conditions of the jails in the nation and suggest ways and means of improving them (ii) set standards for various services and facilities in the jails; (iii) establish an order of priorities for the prison development schemes; and (iv) consider other related issues relating to prisons and prisoners, the government of India's Ministry of Home Affairs established a Working Group on Prisons in 1972. A National Policy on Prison and Correctional Administration was emphasised in the group's report, which was presented a year later. In place of the conventional prison-based policy, the Group's report identified the key components of the proposed National Policy, with the following elements being the most significant:

1. To effectively prevent crime and treat offenders, a suitable system for coordination between the three branches of the criminal justice system—the police, the courts, and the prison and correctional administration—should be established.

2. Through the offender's rehabilitation, society's protection must now be the primary goal of punishment. The main objectives of the criminal justice system today are the reintegration of the offender into society and the reduction of crime. Therefore, the goal of prison administration will be to utilise all available resources, both human and material, to provide each offender with scientific treatment tailored to his unique needs and circumstances.

3. The concepts of deprivation of liberty and exclusion from society should primarily be reserved for persistent, dangerous, and incorrigible offenders, and the government should use all available alternatives to imprisonment as a tool for sentencing policy. As much as possible, non-institutional and semi-institutional forms of treatment should be used.

4. Probation, other correctional services, and the prison should work closely together. As a result, the management of the prison system needs to be viewed as an essential element of the national planning process' social defence component.

5. All imprisoned indigent individuals should be given free legal counsel.

6. Wherever possible, under trial inmates should be housed in separate institutions and given the opportunity to participate in volunteer work.

7. After a thorough review of the prison reports attesting to the ex-convicts' abilities and qualities, the Union and State governments should state unequivocally that there will be no bar or restriction on the employment of ex-convicts of specified categories in the public services.

8. The administration of the prison should routinely involve informed individuals, organisations, societies, and other local organisations in the treatment, follow-up care, and rehabilitation of offenders (Report of the Working Group on Prisons in the Country, 1973).

The group recommended that the National Policy on Prisons should be adopted as soon as possible, along with including some of the group's suggestions for prison administration in the Five Year Plan, amending the constitution to include prisons and related institutions in the Concurrent List, and passing appropriate legislation by the centre, in order to bring about the desired changes in the prison manual as a whole (Report of the Working Group on Prisons in the Country, 1973). The Government of India asked the Seventh Finance Commission to look into the issue of raising the standards of jail

administration on the basis of a thorough analysis of the requirement in this regard while the Working Group's report was gathering dust. Based on an analysis of data gathered from various sources at the national and regional levels, the commission produced its report in 1978.

2.7 Prison reforms

The journey, which started in 1966, has thus set many milestones over the past 30 years. However, it appears that one still has miles to travel before one can sleep and vet promises to keep. We must also exercise common sense. Prisoners' constitutional rights must be interpreted so that the larger public interest is not jeopardised while attempting to be compassionate and understanding with the prisoners. For this, it must be ensured that a prisoner doesn't sustain more harm than is necessary (Gupta, 1996). Efforts must also be made to reform him so that, upon his release from prison, he will be a better citizen rather than a seasoned criminal. It would be helpful to know how prisons are currently perceived generally in our nation. It would suffice to note what was mentioned in this regard at page 13 of paragraph 4.17 of the 1994–1995 Annual Report of the National Human Rights Commission to illustrate this point. The situation in the visited prisons was complex and varied, as stated below. Others, like that open jail in Hyderabad, were underutilised, while many, like Tihar Jail in Delhi, were overcrowded. Conditions frequently varied from one jail to another within a single State, indicating the need for a more judicious use of resources across the board. The Central Jail in Vellore was one of the jails the Commission visited that stood out for being particularly clean and having a balanced diet.

Unfortunately, it witnessed a lot of other filthy places, like the recently built Central Jail in Patna. In still other facilities, the food was subpar, and the inmates complained that the management was cruel and dishonest. In some, care was being taken to distinguish between juveniles and adults, and between minor offenders and experienced criminals. In other places, no such precautions were being taken, and the environment seemed to encourage crime and violence. In a select few, significant efforts were being made to improve living conditions, create rewarding employment, promote education, and restore dignity. In other places, callousness predominated, prisoners were seen wearing shackles, mentally disturbed inmates—whether they were criminals or not—were detained alongside others, and no real effort was made to go above and beyond what was necessary

for the barest survival. Prisoners frequently received pitiful wages for their labour, giving them little chance to save money for future reintegration into society.

Positive experiences tended to be the exception rather than the rule, depending more on the drive and dedication of individual officials than on the system's ability to operate effectively on its own." According to the literature on prison justice and prison reform, the system is plagued by nine major issues that require immediate attention. These include: (1) Overcrowding; (2) Trial delays; (3) Torture and ill-treatment; (4) Neglect of health and hygiene; (5) Substantial food and Inadequate clothing; (6) Prison vices; (7) Deficiency in Communication; (8) Streamlining of Jail Visits; and (9) Management of Open-air Prisons (Prakash, 1976).

2.8 Overcrowding

It is a known fact that our jails are overcrowded. For instance, there were 8,500 prisoners housed in Tihar Jail in 1994–1995 as opposed to the facility's 2,500-person capacity. The danger level rises as a result of overcrowding's effects on disease risk, noise levels, and surveillance. In addition, when prisons are overcrowded, inmates' lives are harder and staff members' jobs are more difficult. The wellbeing of prisoners is impacted by overcrowding. The same has a very negative impact on hygienic conditions. Therefore, it needs to be attended to.

There must be a reduction in overcrowding as a result of the release on bail of specific groups of undertrial inmates, who make up the majority of the prison population. It would be helpful to make reference to the Law Commission of India's Seventy-Eighth Report on the "Congestion of Undertrial Prisoners in Jails" at this point. If adopted, the Commission's recommendations in Chapter 9 of the Report would reduce jail overcrowding. These recommendations include easing the restrictions on bail release. Utilising alternatives to incarceration is another way to address overcrowding. These are: (1) A fine; (2) A court order; and (3) Probation.

Regarding release on probation, it can be said that it actually results in the suspension of the requirement to execute bond under the Probation of Offenders Act, 1958, which requires maintenance of good conduct during the probationary period and finds the concerned person back in prison if it is not done. That Act stipulates a range of probationary requirements and lays out the process to be followed when conditions are not followed by offenders. Releases on parole, which is a restricted release of a prisoner

after serving a portion of the sentence imposed upon him, also help to reduce overcrowding. The system of remission, leave, and premature release is covered in Chapter 20 of the Report of the All India Committee on Jail Reforms (1980–1983). The Committee discussed different types of remission and offered some suggestions for streamlining the remission process.

As for a prisoner's early release, which is a result of parole, the Committee has stated that this is a recognised method of incentive because it spares him from serving an additional period of time in prison and aids in reformation and rehabilitation. In this regard, the Committee has also provided some recommendations. Overcrowding has yet another negative consequence. Similar to this, it forbids separating prisoners into those who received severe and lighter sentences. Hardened criminals might end up influencing others as a result. Then, because there aren't enough suitable alternatives for where they must be detained, juvenile offenders who are kept in jails mix with other people and are likely to become even more corrupted. Therefore, addressing the overcrowding issue head-on is essential for a better future (Australian Institute of Criminology, 2004).

2.9 Delay in trial

It is clear that an undertrial prisoner spends more time in jail while awaiting the outcome of the case when the trial is delayed. The hardship brought on in this case should be greatly reduced if UTP is released on bail in cases where the trial drags on. It is important to keep in mind that appearing in court on remand dates is a requirement under the law, and doing so has additional significance in that it gives the prisoner the chance to inform the court that had ordered his custody of any mistreatment or difficulties he may have encountered. For this reason, before ordering further remand, the trial court must guarantee the prisoner's actual production.

The constitutional courts of the nation have been persuaded that the right to a speedy trial is a sign of a fair, just, and reasonable procedure because of the mental anguish, expense, and strain that a person facing criminal charges must endure and which, when combined with delay, may result in impairing the capability or ability of the accused to defend himself. The stages of an expedited trial would include the investigation, inquiry, trial, appeal, revision, and retrial. In other words, everything that happens between the time of the accusation and the time of the final judgement; these two points are, respectively, the "terminus a quo" and the "terminus ad quem" of the journey that an accused person must

take when they are implicated. In *P. Ramachandra Rao v. State of Karnataka* (2002) 4 SCC 578, the court stated that it must be left to the wise discretion of the court assigned to a particular case to determine from the totality of the circumstances of a given case whether the amount of time consumed up until a given point in time amounted to a violation of Art. 21 and, if so, to end the specific proceedings; if not, to move forward. (*P. Ramachandra Rao v. State of Karnataka*, 2002)

The question is whether the trial or proceedings have been ongoing for so long that the excessive delay can be considered oppressive and unjustified. In order to implement the right to a speedy trial, the criminal courts should use their available authority, such as that granted by Sections 309, 311 and 258 of the Criminal Procedure Code. (Now 346, 348 and 281 of BNSS, 2023). A trial judge who is vigilant and thorough can prove to be a better defender of such a right than any regulations. In the right circumstances, the inherent authority of the High Court under Section 482 (Now 528 of BNSS, 2023) may be used to issue the orders required to carry out a Cr.P.C. order, stop the abuse of any court's process, or further the interests of justice. The power is broad and, if used carefully and deliberately, can address almost all circumstances where interference by the High Court is required due to a delay in the legal process or for any other reason that would constitute harassment or oppression in any trial, inquiry, or proceeding. When necessary, the High Courts have used their authority under Section 482 of the Criminal Procedure Code (Now 528 of BNSS, 2023) to halt investigations, first information reports, and criminal proceedings if a case of clear-cut abuse of the legal system could be established. Such authority can undoubtedly be used in the case of a fundamental right violation under Article 21 of the Constitution.

2.10 Torture and ill-treatment

In addition to torture, various other physical ill treatments like the use of iron bars and fetters are frequently used in prisons. Some of these falls under the umbrella of jail manual provisions.

2.11 Neglect of health and hygiene

The Mulla Committee addressed this issue in Chapters 6 and 7 of its Report, which when read reveals the pitiful state in which the majority of jails are placed in terms of hygienic conditions. Additionally, most of them lack adequate facilities for the care of prisoners. Chapter 29 contains the Committee's recommendations in this regard. For two reasons,

society has a duty to care for the health of prisoners. First, prisoners lack access to medical professionals that free citizens do. Due to their incarceration, they are unable to access their preferred doctor, second opinions, or specialists. Second, due to the conditions of their incarceration, prisoners are more likely to experience health problems than free people. Prisoners consequently have two disadvantages.

2.12 Insubstantial food and inadequate clothing

There is little reason to doubt that the guidelines in the relevant jail manual regarding the provision of prisoners with food, clothing, and other necessities are not always strictly followed. The only useful thing that can be said about this issue is that those who have the right to inspect jails should do so with the least amount of notice possible so that the inspection reveals the truth. It is necessary to implement the complaint box system that was temporarily implemented in Tihar Jail in other jails as well. The complaint must be fairly investigated, and appropriate action must be taken against the offender. Furthermore, prisoners must be given full assurance that anyone filing a complaint won't face negative repercussions for doing so.

2.13 Prison vices

Only if what is said later on about jail visits is given specific form can it be said that some vices may be dealt with. Due to the prisoner's broken marriage, many of the vices are connected to sexual urges that go unmet. Some vices might go away on their own if something could be done to keep the family unit intact, as sexual frustration might become bearable. The aforementioned appears to be a more sensible approach to dealing with inmate vices than menacing punishment. A sympathetic approach is also necessary given the circumstances they are in.

2.14 Deficiency in communication

Communication with the outside world is interrupted while in jail, so the inmate is unable to keep up with events that even his closest friends and family are going through. This results in additional harm. It would be ideal to have a more open mindset when it comes to speaking with family members in particular. It should be noted that while there may be some justification for limiting visits, insofar as postal communication is concerned, there does not appear to be any justification to deny an inmate easy access.

2.15 Streamlining on jail visits

There are three types of visitors to prison: family and friends, professionals, and laypeople. The spouse falls under the first category. The fact that he or she is visiting has special significance because an earlier study on Indian prisoners revealed that the majority of them were between the ages of 18 and 34, indicating that most of them were young and possibly married before being imprisoned. Denial of conjugal life for the entirety of their incarceration causes emotional issues for such people. Therefore, spouse visits are extremely important. Of course, it is true that visits can occasionally be challenging for visitors. This is likely to be the case in isolated prisons. Aside from this, the visitor facilities in many jails are substandard.

Even privacy is not upheld in many places. If visitors and offenders are both screened, this emphasises their separation rather than preserving their shared ties and interests. Therefore, it is crucial to streamline these visits. The frequent jail visits by family members help the prisoner's family and small friendly group accept him after his release from jail because they maintain the personal relationship they developed while he was imprisoned, which led to a psychological connection between him and other family members. Given the right granted by Article 22(1) of the Constitution, visits by professionals, i.e., the lawyer, must be guaranteed to the necessary degree if the prisoner is a pre-trial detainee.

2.16 Management of open air prisons

One of the goals of prison management must be the reformation of prisoners, and open-air prisons play a significant role in this process. They represent one of the best examples of the individualization of punishments for the purpose of social readjustment. It has been asserted as such because the open-air prison (camp) system includes features such as the release of offenders on probation, home leave for prisoners, the introduction of a wage system, release on parole, and the educational, moral, and vocational training of prisoners. Financially speaking, an open institution is far less expensive than a closed one, and the programme has the added benefit of allowing the government to put inmates who would otherwise have remained idle to work for the good of the general public.

Positive financial returns result from the camps' operation, and they soon pay for themselves. The overall goal is to prevent the prisoners from relapsing into crime after release. To this end, they are given incentives to lead normal lives by receiving training

in horticulture, agriculture, and other related fields. The open-air camps' routine includes games, sports, and other recreational activities that teach the prisoners discipline and social responsibility. Regularly offered prayers offer spiritual guidance. However, open-air prisons produce their own issues, which are primarily management-related. These issues are not the kind that can't be resolved. No managerial issue is insurmountable for the benefit of society as a whole, which entails ensuring that prisoners leave a jail not as a hardened criminal but as a person who has changed. So permit the opening of more and more outdoor jails. To begin with, this is possible at all of the national district headquarters (Commonwealth Human Rights Initiative, 1988).

2.17 Rights of the prisoners under the Prisons Act, 1894.

The law of parole is applicable to convicted prisoner, as per section 3 (3) of the Prisons Act, 1894 "Convicted criminal prisoner" means any criminal prisoner under sentenced of a Court or Court-martial, and includes a person detained in prison under the provisions of Chapter VIII of the Code of Criminal Procedure, 1898 (10 of 1898), or under the Prisoners Act, 1871 (V of 1871)

Under the Prisons Act, 1894 the prisoners have the following rights

- As per Section 4 of the Act the prisoners have a right to Accommodation.
- As per Section 7 of the Act right to shelter and safe custody in temporary prisons.
- As per Section 26 of the Act medical examination by Medical Officer
- As per Section 35 of the Act no criminal prisoner sentenced to labour or employed on labour at his own desire shall, except on an emergency with the sanction in writing of the Superintendent, be kept to labour for more than nine hours in any one day. (Prisons Act, 1894)

2.18 Judicial response

The Supreme Court stated in the case of Lingala Vijayakumar & Ors v. Public Prosecutor AIR 1978 SC 1485, Andhra Pradesh, that "the court has responsibility to see that punishment serves social defence, which is the validation of deprivation of citizen's liberty." (Lingala Vijayakumar & Ors v. Public Prosecutor, 1978) Modern criminology must include rehabilitative-focused correctional treatment. If the retributive theory, which is merely vengeance in disguise, is to be eradicated and deterrence as a punitive

objective is to be successful through reformation and healing, whereby the creative potential of the prisoner is unlocked, rather than by the hardening practise of inhumanity inflicted on prisoners.

These values have their origins in Article 19 of the Indian Constitution, which permits the deprivation of freedoms so long as it serves the interests of social defence, public order, and state security. His psyche is damaged by your cruel treatment inside the cell, and the damage is permanent. It is obvious that torturing people is unreasonable because it has a negative impact on society, whereas being compassionate, educating, and purposeful is reasonable because it changes a person and helps him become more social.

The judicial process will call the prison authorities to order and force them to respect the fundamental rights of the appellants if an appropriate motion is made to this Court showing that a prisoner's residual rights have been violated by unnecessary cruelty and unreasonable impositions, denials, and deprivations within the prison environment. Prisoners are not artificial beings. Even when it comes to homosexuality, our prisons are not noticeably different. If incarceration is not designed with therapeutic objectives in mind, social defence reaches its breaking point. Such an offender is "caught in a "revolving door" after release, which starts with an arrest on the street, goes through a short, fruitless stay in jail, and ends with another arrest. Inmates are negatively impacted by overcrowded jails and uses for which they are not suitable. The Supreme Court provided justification for the use of an open prison system for the reformation and rehabilitation of offenders in *Dharambir v. State of Uttar Pradesh* AIR 1979 SC 1595, the court stated: "Decriminalising the criminal and restoring his dignity, self-esteem, and good citizenship are some of the main purposes of punitive deprivation of liberty, which is constitutionally sanctioned; so that when the man emerges from the forbidden gates he becomes a socially useful individual. Long prison terms degrade prisoners and encourage recidivism rather than humanising or rehabilitating them. Living in prison for the rest of one's life entails endless solitary confinement. Inmates' responses are not softened by these indignations of the soul brought on by indefinite incarceration." (*Dharambir v. State of Uttar Pradesh*, 1979)

In order to restore his damaged psyche, the Court issued the following directives: sending the two prisoners to one of the open prisons in Uttar Pradesh if they substantially fulfil the requirements; using them as farm labourers or paying them a low wage because they

are farmers by trade; maintaining contact with the prisoners' families by allowing them to visit them; and allowing the p The Supreme Court gave the following instructions to various authorities in *Rama Murthy v. State of Karnataka* (1997 Cri.L.J. 1508.) to streamline India's prison reforms:

- (1) To make the appropriate decision regarding Chapter IX's recommendations made by the Law Commission of India in its 78th Report on the topic of overcrowding of prisoners awaiting trial.
- (2) To consider the Mullah Committee's recommendations in Chapter XX of Volume I of its Report regarding streamlining the parole system and early release (remission), and then to take the necessary action.
- (3) To think about giving the prison staff the responsibility of bringing in defendants at remand dates.
- (4) To consider replacing the century-old Indian Prison Act of 1894 with a new prison law.
- (5) To investigate the issue of drafting a brand-new All India Jail Manual.
- (6) To consider the Mullah Committee's recommendations in Chapter XXIX regarding providing adequate medical facilities and maintaining suitable hygienic conditions and to take necessary action.
- (7) To consider whether there should be a complaint box in every jail.
- (8) To consider the introduction of communication facility liberalisation.
- (9) To take the necessary actions to streamline visitations in jail.
- (10) To consider the possibility of implementing outdoor prisons, at least in the nation's district headquarters. (*Rama Murthy v. State of Karnataka*, 1997)

The Supreme Court has occasionally issued directives for the improvement of prison conditions in a number of cases. Which are: (1) Separation of young offenders: Young prisoners must be protected from adult exploitation by being separated. (2) Companionship: In light of Article 19 and its scope, the right of the society of fellow men, parents, and other family members cannot be denied, subject to discipline and other security criteria. (3) Legal consultation: Subject to discipline and security considerations,

solicitors designated by courts are granted access to all facilities for interviews, visits, and private communications with prisoners. (4) Judicial oversight: District Magistrates and Sessions Judges must personally visit prisons within their jurisdiction or do so through substitutes, providing effective opportunities for inmates to air their legal grievances. (5) Standard Minimum Rules: The State is required to follow the Standard Minimum Rules for the Treatment of Prisoners as recommended by the United Nations, particularly those pertaining to work and wages, treatment with dignity, community contact, and correctional strategy. (6) Just and rational prison legislation, including the prison manual. The prisons act requires revision. The need for a correctional staff orientation course outlining constitutional values, therapeutic philosophies, and tension-free management has arisen. (7) Legal protection of prisoner's rights: Using its writ jurisdiction and contempt power, the court must uphold the prisoner's rights. Free legal services for prisoners must be promoted through reputable legal aid programmes in order for this jurisdiction to be financially viable.

The ultimate purpose of imprisonment is to protect society and the lives and property of its members. For a long time people have thought that this purpose is most successfully achieved by administering imprisonment as a form of punishment. Speaking generally, this punitive intent of imprisonment serves to satisfy the primitive demand for just retribution and is visited upon the offender in the vindictive spirit of revenge. The public's desire to "get even" is the mass expression of our individual desires of the same sort, based no doubt on the sub-conscious fear that we may ourselves some- time be the victim of some crime. This instinctive tendency toward revenge is an unrationalized attempt at social self-protection and still holds an important place today as a means of crime prevention. Imprisonment is punishment and undoubtedly sometimes should be administered for that purpose alone. It is so to the individual and so to the public. Let us not overlook its value as a means of reducing crime and of dealing with criminals. But this punitive intent of imprisonment is generally accomplished by the sentence of the court alone through the consequent deprivation of freedom and does not warrant the physical or mental abuse of prisoners in jail or penitentiaries; nor does it absolve the prison administrator of some positive responsibility for the mental and physical welfare of prisoners on their return to society. (Edgar A. Doll, 1927)

These three purposes of imprisonment (punishment, deterrence and restraint) are, we have said, principally accomplished by the court in passing sentence. What part has the prison administrator to play? How shall he avoid adding to the sentence of the court such unfortunate consequences of imprisonment as ill health, antagonistic social attitude and broken spirit? Is there some constructive function that he has to perform in addition to the necessary safe-keeping of the prisoner? Common sense is a little doubtful whether the penal treatment of the prisoner should be rigorous or sympathetic, for however righteous is our indignation in objecting to the coddling of prisoners, we cannot fail to recognize the many unfortunate consequences of brutality. The "hard- subjugation has always proved both futile and short sighted.

Most men under imprisonment then, must be restored sooner or later to society as hopeful citizens, social assets instead of social liabilities in health, in attitude, and in economic or industrial efficiency, presumably able to manage themselves and their affairs discreetly and independently of supervision. Within the limits of their natural endowments, we should, therefore, strive not only to maintain but to improve the prisoner's health and physical condition; not only to conserve but to restore in him a favourable social attitude; not only to retain but to increase his industrial or occupational skill. (Edgar A. Doll, 1927)

There has been a great change in public thought in recent years regarding crime and the treatment of criminals. One sees it reflected in legislation, in the work of courts and institutions, in the attitude of the public press, in expressions from the public platform. Our conception of the purpose of imprisonment is no longer that of retribution, or of retaliation. Nor do we now believe with Sir William Blackstone that punishment will prevent others from committing a like offence.

The Preamble of the Declaration of Principles of the American Correctional Association which was developed in 1870, at the first meeting of the American Prison adopted a notable principle which reads as: "The treatment of criminals by society is for the protection of society. But since such treatment is directed to the criminal rather than the crime, its great object should be his moral regeneration. The state has not discharged its whole duty to the criminal when it has punished him, nor even when it has reformed him... Having lifted him up, it has further duty to aid in holding him up. In vain shall we have given the convict an improved mind and heart, in vain shall we have imparted to

him the capacity for industrial labor and the desire to advance himself by worthy means, if, on his discharge, he finds the world in arms against him, with none to trust him, none to meet him kindly, none to give him the opportunity of earning honest bread¹.” (Declaration of Principles, 1870)

The United States continues to lead the world in incarceration given that over 6.3 million persons are under correctional control. More than 2.1 million are in prison or jail, and 4.4 million are under community surveillance on probation or parole. At least 19 million persons are living with a felony conviction while an estimated 70-100 million have a criminal record. The persistence of extremely punitive sentencing laws and policies, not increases in crime rates, sustain the nation’s high rate of incarceration. Ending mass incarceration requires a transformative change to sentencing policies and practices aligned with the scaling back of collateral consequences of conviction and its challenges. (Nicole D. Porter, 2021)

As per the Prison Statistic India–2021 provides the following data as to the increase in the number of prisoners and as per the data received from the state it is observed that the total number of prisons at national level has increased from 1,306 in 2020 to 1,319 in 2021, having increased by 1.0% (Prison Statistic India, 2021).

Year	No. of Prisons	Actual Capacity of Prisons	No. of Prisoners at the end of the year	Occupancy Rate at the end of the year
2019	1,351	4,00,934	4,81,387	120.1%
2020	1,306	4,14,033	4,88,511	118.0%
2021	1,319	4,25,609	5,54,034	130.2%

Table 1: Prisoners Data for 2019, 2020, 2021

In other ways penology is changing it becomes more scientific. It is going back of the symptoms to find the cause. It is treating the individual offender instead of his crime, clinics that have been established and their number is growing have taught us that a large

number of persons who are tried in sentence for offences have mental defectiveness or have a psychosis. (W. H. Eichhorn, 1920).

The correctional methods attempt to give a way out to the prisoner for their reformation Rehabilitation. Welfare programmes are being organised for sensitisation of such offender medical counselling, legal aid, educational programmes such as Elementary Education, Adult Education, Higher Education and Computer Course is imparted through various vocational trainings by the prison authorities.

2.19 Welfare programmes for prisoners

The right to life of the prisoner has to be balanced with the rights of the society i.e., security of the state and security of the prisoner. From a social and human perspective, it is very important that prisoners are socially connected with the family members and friends which becomes the one of the important functions of correctional institutions. The correctional institutions other than the living conditions of the prisoner should look into the treatment of such offenders.

Criminologists have recognised that every jail has its own sub-culture which gets concentrated over several years. The prison authorities should appropriately plan the routine for proper balanced, wholesome and diversified treatment to different categories of prisoners requiring treatment and reformation. (Report of All India Committee on Jail Reforms Mulla Committee, 1983)

According to the Mulla Committee on Jail Reforms the offender in prison should be looked at from three angles (Report of All India Committee on Jail Reforms Mulla Committee, 1983)

- i. the essential pre-requisites for carrying out appropriate treatment programmes conducive to rehabilitation of offender;
- ii. Variety and contents of treatment programmes
- iii. evolution of the effectiveness of treatment programmes.

The committee further suggested that the elements and components of the such treatments programmes can be identified under the following heads:

- a) A relaxed positive and constructive atmosphere in the institution

Indian Prison situation, as it exists at present, prisoners are treated as if they have been sent to prisons not only "as" punishment but even "for" punishment. The change of approach is required into the administration of prison system as prisoners should be sent to prison not for punishment but as punishment. (Report of All India Committee on Jail Reforms Mulla Committee, 1983)

b) Good personnel

There is a lack of mutual relationship based on trust between the prison personnel and inmates.

For making treatment programmes effective it would be necessary to develop good relationship between the prison personnel and inmates. But in general, there is total lack of such mutual relationship. (Report of All India Committee on Jail Reforms Mulla Committee, 1983). The Goons/politicians in prison virtually run the prisons and the prison administration is at their mercy making the prison administration as inefficient.

c) Study of the individual inmate; initial

d) Firm and positive discipline

The de-congestion of prisons and improvement of living condition would go a long way in improving discipline in prisons. (Report of All India Committee on Jail Reforms Mulla Committee, 1983)

e) Attending to the immediate and, urgent needs and problems of inmates.

f) Attending to long term needs, planning a balanced and diversified training and treatment programme consisting of work and vocational training, diversified education, recreational, cultural activities, etc. Work and Vocational Training

g) Education

h) Recreational and Cultural Activities

i) Helping the inmate to maintain continuity of his contact with his family and community and outside world

j) A good system of incentives for self-discipline such as remission, leave, transfer to semi-open and open institutions and pre-mature release

k) Individual guidance, counselling casework, Group activities, group guidance and group work

l) Social implantation of proper habits, attitudes and approaches, preparation for social living

- m) Psychotherapy
- n) Supportive therapy
- o) Personal positive influence of institutional personnel
- p) Periodical review of progress, reclassification
- q) Review of sentence and pre-mature release
- r) Planning for release, pre-release preparation
- s) After- care and follow- up
- t) Community participation

2.20 Therapeutic techniques:

The life in the prison is difficult and monotonous which gives no opportunity to the inmate for rehabilitation. To achieve the objective of the theory of reformation can be seen in appropriate cases such as when probation or admonition is granted to the accused at the time of his sentence or inmates are to be released under proper supervision generally after serving a part their sentence. Such correctional measures are helpful in rehabilitation of the prisoners in society.

The object is accomplished by the system of these therapeutic techniques which aims at reforming the offender to society as a normal law abiding citizen. Parole is one such device which seeks to balance the right f the offender with the society and helps the offender in readjusting himself to a normal free life for some period in the community which otherwise is very difficult. Thus, it serves two purposes namely, protecting the society and reformation and rehabilitation of the offender.

With the tag of being a convict it is difficult for society to accept him back as free and non-criminal person. 'Once a criminal always a criminal' leads to the societal attitude to treat him criminal forever although legally and conceptually, he becomes was as pure as he was prior to the commission of offence. This non acceptance leads to the offender to law violating groups where he is being accepted. This frustrates the purpose of punishment (Bartollas, & Miller, 1978).

Therefore, the release of the offender while serving his sentence enhances the scope of his correction, reformation and rehabilitation in the society. Historically, parole is a concept known to military law. It means release of prisoner of war on promise to return. However, now it has become an integral part of the criminal justice system (Halsbury's Laws of India). With the recognition of the reformatory justice various techniques of

treatment have been developed which does not treat all offenders at the same footing. They differ not only from each other in the sense of having committed different crimes but also that the persons committing even the same crime may not be treated in the same manner owing to personal traits, motivations and the likelihood or otherwise of committing crimes in future. The recognition of the difference between the various kinds of offenders germinates the perception that flexibility is desirable in the various sanctions available to Courts, prison administrators and other agencies to deal with offenders. This recognised approach of reformatory justice is achieved through techniques like parole, probation, furlough, pardon and suspended sentence and indeterminate sentence. (Siddique, 2011).

The correctional system is tasked with the responsibility of rehabilitating offenders and reintegrating them into society. While incarceration serves as a means of punishment and deterrence, it often falls short when it comes to addressing the underlying causes of criminal behavior. Parole, as a corrective measure, offers an alternative approach by providing supervised release and support to individuals who have demonstrated their readiness for reintegration.

Probation, parole etc. have emerged as flexible techniques to mitigate the consequences of severe punishment in view of the fact that imprisonment became the more common mode of penal sanction in place of transportation and capital punishment. In parole, the convict is released after serving some part of his sentence and the release is not the result of any judicial decision. The object of the parole is that the prisoner may maintain social life outside the prison. An opportunity is also provided to the prisoner to make financial contribution to the family by his earning outside the jail. Thus, parole keeps prisoners in contact with society in general and his family in particular, which would not be possible in case of long imprisonment. Thus, parole is a flexible technique for rehabilitation of offenders. It promotes his social integration (Chowdhury, 2002).

Thus, correction administration and flexible techniques, such as, parole furlough etc., aim at correcting the criminal behavior rather than punishing the criminal. It is in consonance with the concept of Welfare State.

2.21 Meaning of parole

The promise of good behaviour is known as a word of honour and is included in the parole order. Parole is the release of a prisoner, either temporarily for a special purpose

or completely before the expiration of a sentence. The phrase "I give my word," or "parole," is derived from the French term "je donne ma parole," which is the word for the honour. By promising the captor certain things, the prisoners of war used this word to secure their release.

According to the Encyclopedia of Criminology, Parole is a method of conditional release of persons sentenced or committed to penal or correctional institutions after serving a portion of the sentence or term imposed by the Court (Vernon & Samuel, 1949).

According to Encyclopedia Americana, Parole, Pa-ral, a term with several applications, all of which bear some relation to the meaning of the French term parole (spoken word). In criminology, a parole is the release of a prisoner before he has served his full sentence, conditioned on his good behaviour and his regular reports to a so called parole officer for the balance of the term of his sentence. (Encyclopedia Americana, 1964).

Parole has not been defined under any law. But Section 2(p) of the Delhi Prisons Act, 2000, defines Parole System. According to Section 2(p), Parole system means the system of releasing prisoner from prison on parole by supervision of their sentences in accordance with the rules. (The Delhi Prisons Act, 2000).

Therefore, to put it simply, parole is the premature conditional temporary release of a prisoner on the condition that they abide by the conditions and observe certain restrictions in order to be granted the privilege of returning to the community and socializing with family and friends while considering correctional theory and getting ready to resume their normal lives. The sentence is only suspended temporarily while the overall length of the sentence remains the same. Prisoners who have been granted parole may be sent back to prison if they break the terms of their release. (S&A Law Offices, 2020).

2.22 History of parole

Historically “parole” is a concept known to military law and denotes release of a prisoner of war on promise to return. Parole has become an integral part of the English and American systems of criminal justice intertwined with the evolution of changing attitudes of the society towards crime and criminals (Lata, 1987).

The origin of parole became possible because of excessive faith in the theories of reformation and rehabilitation. Under the influence of reformation and rehabilitation objects and contents of prison life have changed. A number of prison reforms have been

introduced from time to time. The therapeutic approaches on penological spectrum do not enjoy a long-chequered history, but in fact of recent origin. In India, it is in rudimentary form or nascent stage. Before the advent of British rule in India, Mohammedan Criminal Law regulated the administration of criminal justice and Mohammedan Criminal Law was cruel and inhuman and treated criminal's incorrigible (Jain, 1995). It did not have slightest faith in the reformation of criminals. During the British period, criminal law became milder but the punitive techniques continued to be the basis of criminal law.

It is particularly in the last three decades, a shift from punitive to therapeutic technique is being witnessed. The change favouring corrective technique is result of western liberal development taking place in the United States of America and United Kingdom.

2.23 Why parole is to be granted?

Re-assimilation and re-socialisation of offenders is one of the primary objectives of prison administration. Social defence along with personal correction of offenders for social re-assimilation and rehabilitation has been motto of the prison administration. (Vibhute, 2016) It is a recognised principle that incarceration should be more reformatory and less retributive.

With this intent the legislature and prison administration try to execute a therapeutic program for prison administration. One of such measure provided in almost every state are conditional release of convicts sentenced to imprisonment and are undergoing sentencing. Parole do form integral part of the prison administration and is aimed at reformation of prisoners and humanise the prison system.

The prisoners despite being convicted cannot be denied the Fundamental Rights. The personal liberty of the convicted prisoners may be curtailed but still they are entitled to be treated in prison with humanity and as human beings. (Vibhute, 2016)

The international Human Rights conventions also stresses that all persons deprived of their liberty are to be treated with humanity and with respect for inherent dignity of the human person. Recognising inherent dignity is the foundation of freedom, justice and peace, and every individual has the right to be treated everywhere as a person before law. (International Covenant on Civil and Political Rights, 1966)

A parolee is provided with another chance to change for the better. despite the fact that the offender may have broken the law, it is not desirable to stigmatise him for life and deny him the chance to change for the better. It tries to ensure that the prisoner is not disconnected with the societal values so that that once he is released from prison after serving his sentence there are less chances for him to be recidivist. In order to prevent the risks and expenses associated with overcrowding of prisons, the paroling function could be helpful as a "safety valve" for the control of the population of jail proportionately to its capacity.

The goal of parole is to change these people's characteristics through rehabilitation. If the offender exemplifies that he can modify his actions, will stop committing crimes that are deleterious to the society, and shows positive development in his character and behaviour, the goal of this corrective approach will have been achieved.

In the case of **Budhi v. State of Rajasthan & Ors** has reiterated the objectives recognised by the Supreme Court for the concept of parole as it fulfils three objectives, firstly, the use of parole as a motivational force for reforming the prisoners. Secondly, to keep the family ties intact as the family ties are likely to be broken because of the long periods of incarcerations. Thirdly, to slowly draw the misled soul back into the folds of the society (Budhi v. State of Rajasthan & Ors, 2005). Further the Rajasthan High Court held that since punishment should be more reformatory and less retributive, role of parole as reformatory measure had to be acknowledged. It would be in interest of jail administration, in interest of judiciary, in interest of society that parole is to be granted liberally (Sunil Fulchand Shah v. Union of India, 2000).

2.24 [Laws on parole in India](#)

In India the Code of Criminal Procedure, 1973 (Now BNSS, 2023) or other general codes does not contain any provision for grant of parole. The Supreme Court has clarified that judge's authority to commute or suspend sentences is not same as the grant of parole. The grant of Parole is not covered by Section 432 of the Code of Criminal Procedure, 1973 (Now 473 of BNSS, 2023) but by administrative instructions, however, rules have been framed in various States, regulating the grant of parole. Thus, the action for grant of parole is, an administrative action. . (Sunil Fulchand Shah v. Union of India, 2000)

It is essential to keep in mind that India does not have a unified system of parole laws. The parole requirements are governed by a unique set of laws in each state, which can

vary. The main pieces of legislation that set the standards and laws for prisons in India are the Prisons Act, 1894, and the Prisoners Act, 1900. The Prisons Act of 1894 grants the State Government the authority to enact regulations for the management of prisons in Section 59(5) of the Act. As "prisons" are included in the State List of the 7th schedule of the Constitution, states have the authority to enact laws governing prisons. (The Constitution of India, 1949)

The law of Parole in states are different for instance the laws that governs the grant of Parole for the State of Maharashtra and Goa is Prisons (Bombay Furlough and Parole) Rules, 1959. For the state of Madhya Pradesh, the legislation that governs for the grant of parole is the Madhya Pradesh Prisoner's Leave Rules of 1989. For the State of Uttar Pradesh, it is governed by U.P. (Suspension of Sentence of Prisoners) Rules, 2007. For the State of Delhi, it is governed by Delhi Prison Rules 2018. The laws for the different states specify the prerequisites, qualifications, procedures, and penalties for parole default.

The states have formulated guidelines for the procedure of grant of parole in order to have objectivity in the decision-making process. Guidelines of some of the states provides for two kinds of parole namely, custody parole and regular parole.

Custody parole is generally granted in emergent circumstances like:

- (i) death of a family member;
- (ii) marriage of a family member;
- (iii) serious illness of a family member; or
- (iv) any other emergent circumstances. (Asfaq v. State of Rajasthan, 2017)

As far as regular parole is concerned, it may be given in the following cases:

- (i) serious illness of a family member;
- (ii) critical conditions in the family on account of accident or death of a family member;
- (iii) marriage of any member of the family of the convict;
- (iv) delivery of a child by the wife of the convict if there is no other family member to take care of the spouse at home;

(v) serious damage to life or property of the family of the convict including damage caused by natural calamities;

(vi) to maintain family and social ties;

(vii) to pursue the filing of a special leave petition before this Court against a judgment delivered by the High Court convicting or upholding the conviction as the case may be. (Asfaq v. State of Rajasthan, 2017)

The grant of custody parole is not only for the convicted prisoners but also for the undertrial prisoners. Generally, it is the convicted prisoners who qualify for the regular parole after serving minimum sentence according to prison rules of the state.

For the State of Delhi, in accordance with Rules 1203 and 1204 of the Delhi Prison Rules, 2018 custody parole may granted which provides that the Superintendent of Jail will verify the existence of the circumstances from the concerned police station immediately on receipt of the application to that effect for the following eventualities such as death of a family member, marriage of a family member, serious illness of a family member or any other emergency circumstances with the approval of DIG (Range) of prisons for a period not exceeding 6 hours excluding the excluding the time taken to reach the destination and return to Prison(The Delhi Prison Rules, 2018).

The custody parole may even be granted if after conviction the appeals is pending before the higher courts. (The Delhi Prison Rules, 2018).

Custody parole is not to be confused as a substitute for being granted bail. The Delhi High Court while deciding an application for grant of custody parole for campaigning and canvassing for election in the case of Election Commission of India v Mukhtar Ansari & Anr 2017 SCC Online Del 7199 has observed that the custody of the prisoner away from the prison or the Court to any other place cannot be shifted except for a short period and only to meet emergent situations like death in the family, or to go to hospital or marriage of a child or sibling etc. The same cannot extend for long periods and for daily visits and cannot be substitute of a grant of bail. (Election Commission of India v Mukhtar Ansari & Anr, 2017)

The Supreme Court in the case of **Asfaq v. State of Rajasthan** (2017) 238 DLT 571. observed that as far as “regular parole” is concerned, it may be given in the following cases:

- (i) serious illness of a family member;
- (ii) critical conditions in the family on account of accident or death of a family member;
- (iii) marriage of any member of the family of the convict;
- (iv) delivery of a child by the wife of the convict if there is no other family member to take care of the spouse at home;
- (v) serious damage to life or property of the family of the convict including damage caused by natural calamities;
- (vi) to maintain family and social ties;
- (vii) to pursue the filing of a special leave petition before this Court against a judgment delivered by the High Court convicting or upholding the conviction, as the case may be. (Asfaq v. State of Rajasthan, 2017)

2.25 Sentence on conviction and parole

In the case of State of Gujarat v. Lal Singh the well settled aspect of law has been reiterated that the Judge is expected to act in consonance and accord with the legal principles. The authority should not be exercised based on judge individual perceptions or notions. The judge to consider himself as a candle of hope but application of the said principle in all circumstances is not correct because it may have the effect potentiality to affect the society. While exercising the jurisdiction he is expected to take into consideration that “discipline” and “restriction” are the two basic golden virtues within which a Judge functions. He may be one who would like to sing the song of liberty and glorify the same abandoning passivity, but his solemn pledge has to remain embedded to the Constitution and the laws. (Gujarat v. Lal Singh, 2016)

In Vikas Chaudhary v State, the trial court convicted the three accused persons for the commission of offence under Sections 302, 364A, 201, read with Section 120B IPC. (Now 103, 140, 238 read with 61 of BNS, 2023) They were sentenced to life imprisonment for the remainder of their natural life, and an additional condition was imposed on two accused was that that they would not be entitled to any parole, remission, or furlough, before completing 30 years of imprisonment. They were also sentenced to

each pay Rs. 2,10,000 as fine, and Rs. 4,00,000 as compensation to the victim's family. (Vikas Chaudhary v State, 2023)

The Supreme Court in *Swamy Shraddananda v. State of Karnataka* has reiterated that the power derived from the Penal Code for any modified punishment within the punishment provided for in the Penal Code for such specified offences can only be exercised by the High Court and in the event of further appeal only by the Supreme Court and not by any other court in this country. (*Swamy Shraddananda v. State of Karnataka*, 2008).

Taking into consideration the Supreme Court made it clear that the trial courts, are foreclosed from imposing such a modified or specific term sentence, or life imprisonment for the remainder of the convict's life, as an alternative to death penalty. (*Swamy Shraddananda v. State of Karnataka*, 2008)

2.26 Distinction between parole and probation

The terms Probation and Parole are generally interchangeably used to a great extent and closely associated in people minds that it becomes necessary to bring out the difference between them at the very outset. To the convict on probation the in-prison institution is threat but to the paroled convict the prison institution is an actuality which gives him a vital experience in his life will leaves an indelible imprint on his mental process. By the procedure established the convict on probation remains an intrinsic part of the community. Whereas the convict on probation has been segregated from the social unit. (Burleigh, 1921)

The points of distinction between Probation and Parole are as follows:

- a) The system of probation owes its origin to John Augustus of Boston (U.S.A.) who around 1841, tried to convince the Judge of the Magistrate Court that certain offenders would respond well to his supervision if committed to his care instead of being jailed. The credit for developing early parole systems is to be given to an Englishman, Captain Alexander Maconochie, and an Irishman, Sir Walter Crofton. (Origins Of Probation and Parole). and the concept further developed around 1900.
- b) The prisoner may be released on parole when he has served some part of his incarceration as per the classification of offences provided in the state laws. But

on the other hand, Probation is to be granted at the time of sentence hearing where a sentence may be imposed or if even imposed it is not executed.

- c) In the Parole the offender is in custody undergoing both incarceration as well as reformatory treatment. Whereas in Probation the offender is under the supervision of the authorities for his reformatory treatment.
- d) The grant of Parole is judicial function i.e., granted by the court subject to the conditions imposed on the probationer. Whereas the grant of parole to parolee is quasi-judicial function which is administrative in nature which is to be exercised by executive authorities. In other words, Probation is the outcome of a judicial decision wherein that is not the case for Parole.
- e) In the reformatory process Probation is the first stage of correctional scheme whereas the parole is stage of the offender reformatory process which is during the incarceration of the offender.
- f) The stigma attached to a Probationer is not the same that for a Parolee. The prisoner released on parole suffers the stigma of being a criminal in the society. Probation and Parole also differ in respect of stigma or disqualification attached therewith. There is no stigma or disqualification attached to offender who is released on probation of Good Conduct. But a prisoner released on parole suffers stigma as a convicted criminal in the society. (Chakrabarti , 1999).
- g) The Probationer also gets the benefit that he shall be not subject to any disqualification attaching to a conviction for an offence under such law. (The Probation of Offenders Act, 1958). Whereas a parolee is not benefitted to any such disqualification attaching to a conviction for an offence under such law.

2.27 Distinction between parole and furlough

In the case of *State of Haryana v Mohinder Singh*, the Supreme Court observed that “furlough” and “Parole” are two distinct terms now being used in Jail Manuals relating to the temporary release of Prisoner. These two terms have acquired different meanings in the statute with varied results. (*State of Haryana v Mohinder Singh*, 2000).

In the article “Furlough Programs and Conjugal Visiting in Adult Correctional Institutions” explained furlough as “The term ‘furlough’ is frequently confused with special leave, which most adult institutions have long been willing to grant under

extenuating circumstances, such as family crises. A prisoner on special leave customarily travels under escort, while on furlough he is on his own” (Markley, 1973)

“Furlough” according to Black's Law Dictionary (6th Edn.) means:

“A leave of absence; e.g., a temporary leave of absence to one in the armed service of the country; an employee placed in a temporary status without duties and pay because of lack of work or funds or for other non-disciplinary reasons. Also, the document granting leave of absence.” (Black’s Law, 1990)

The privileges attached to furlough are neither an element of punishment attached to an initial conviction, nor an integral part of the sentencing procedure, but merely internal rehabilitation. (Milhouse v. Levi, 1976)

The points of distinction between parole and furlough are as follows:

- a) Parole is not a matter of right but subject to discretion exercised by executive authorities whereas Furlough is matter of right.
- b) The period of furlough is treated as remission of sentence, but the period of parole is not treated as remission of sentence.
- c) The application for parole to the executive authorities may be refused by the authorities on valid grounds such as the release of the prisoner would be against prison administration or against the societal interest. Whereas the application for furlough is to be decided on merits and cannot be rejected at the threshold. (Trehan, 2011)

2.28 Distinction between parole and indeterminate sentence

According to P Ramanatha Aiyar: The Major Law Lexicon dictionary an indeterminate sentence means “An uncertain or indefinite sentence for crime. A criminal sentence in which the term of imprisonment is left uncertain except so far as the minimum or maximum are concerned. After the minimum term has elapsed, the penal authorities, after a board of parole, fix the exact term. This is based on the modern doctrine of penology that the punishment should be individualized.” (Aiyar, 2010)

The term Parole is often confused with the term indeterminate sentence. Parole means the release of the prisoner in incarceration on the requirement of his observance of certain conditions. In Europe this is known as "conditional liberation" and used to be called in

England "ticket of leave". On the other hand, indeterminate sentence is more generally used to mean a sentence in which a maximum limit for the duration of the imprisonment is specified, or if not expressed in the sentence, fixed by law and so implicit in the sentence even though not expressed. (Lindsey, 1925).

Fairness in sentencing seemed most likely to be achievable if a criminal sentence was of a determinate rather than indeterminate duration. But even determinate sentencing would not be fair unless the sentences so authorised were the punishments that convicted offenders deserved. (Allen, 1981).

In the case of *Lal Singh v. State of Gujarat* (*Lal Singh v. State of Gujarat*, 2012) which was overruled in *State of Gujarat v. Lal Singh*, (2016) 8 SCC 370 the following contentions were being brought before the High Court of Punjab & Haryana.

“(82) In the light of the above discussions, facts and circumstances of the cases in hand, the arguments of the counsel for the Government of Gujarat that life imprisonment means natural life of the prisoner is against the provisions of the Constitution and the International Human Rights Documents and will amount to arbitrary exercise of power rejecting the premature release of petitioners. I have no doubt that indeterminate life imprisonment and non-release of a convict — prisoner is worse sanction than the death sentence, resultant encroachment upon the life and personal liberty by the executive. A barbaric crime does not have to be met with a barbaric penalty which may upset the mental balance of a person who may realize that he will never be out of prison the reasonable determination period of imprisonment with regard to offences where life imprisonment is provided is a necessity and call for appropriate amendment for prescribing determinate punishment keeping in view the gravity of the offence. This Court feels that it is the primary obligation of the Legislature to carry out necessary amendments in the cases where imprisonment for life is provided to make aware the convict/prisoner how much period he has to undergo in prison. Otherwise, the approach of reformatory, rehabilitative and corrective system will be only a futile exercise. Otherwise also, to keep a prisoner behind bars is a financial burden on the State exchequer and for that reason it is imperative to fix some determinate punishment by making amendments” (*Lal Singh v. State of Gujarat*, 2012)

The Supreme Court overruled the observations made by the High Court and observed as

“34. We have referred to the aforesaid authority only to highlight the view expressed by the Constitution Bench with regard to grant of parole. The impugned order, as we notice, is gloriously silent and, in fact, an abrupt direction has been issued to release the first respondent on parole for a period of three months. It is well settled in law that a Judge is expected to act in consonance and accord with the legal principles. He cannot assume the power on the basis of his individual perception or notion. He may consider himself as a candle of hope but application of the said principle in all circumstances is not correct because it may have the effect potentiality to affect the society. While using the power he has to bear in mind that “discipline” and “restriction” are the two basic golden virtues within which a Judge functions. He may be one who would like to sing the song of liberty and glorify the same abandoning passivity, but his solemn pledge has to remain embedded to the Constitution and the laws. There can be deviation”(State of Gujarat v. Lal Singh, (2016)

Indeterminate sentence technique is not employed in India but is prevalent in the U.S. and some other European Countries. The Indian Penal Laws however, does not provide for indeterminate sentence for the reason that similar objective is attained by resorting to certain other correctional techniques such as probation, parole, open air camps for prisoners.

The distinctions between parole and indeterminate sentence are as follows:

- a) Indeterminate sentence bears uncertainty about the exact period of sentence, which in itself is a great punishment to the offender. While on the other hand, the system of parole serves a kind of pre-intimation to the parolee that he is nearing his final discharge.
- b) In case of indeterminate sentence, no specific period of sentence is provided whereas the prisoner, who is released on parole, is always initially committed to certain period of sentence. While undergoing the punishment, if he is considered fit for releases on parole he is released for the remaining portion of his sentence as a parolee.

2.29 Distinction between parole and suspended sentence

According to P Ramanatha Aiyar Advanced Law Lexicon a suspended sentence is defined as “A kind of judicial sentence whereby the judge may pronounce a sentence of imprisonment or fine but suspend its operation for a period. If during the period of

suspension the offender does not offend again, the sentence is wiped out; if he does offend, the sentence is automatically enforced, quite apart from any penalty eligible for the second offence. The difficulty is that the offender's circumstances at the time it becomes enforceable may be so different as to make the sentence inappropriate. The suspended sentence of imprisonment was introduced in England in 1973 in the case of sentences of not more than two years' imprisonment, and the operation of the sentence is not automatic on reconviction but only if a Court orders that the original sentence shall take effect, either as passed or as varied by the later Court.” (Aiyar, 2019)

In the suspended sentence of imprisonment, the accused is convicted with a sentence of imprisonment or fine but the execution of it is suspended for a period. India does follow the concept of suspended sentence but it is employed in certain countries, such as Germany, France, and some States of U.S.A. During the prescribed period of sentence, if the offender is not convicted of other offence, the conviction and sentence both disappear. The concept comes closer to probation but both share striking differences also.

The trend of the reformatory corrections is progressive and should improve with the development of new policies and proper exercise of discretion for the grant of such corrective therapeutic techniques by the competent authorities in the future. The success of the therapeutic technique of parole depends upon a number of factors such as the decision making, characters, integrity of the administrative authorities in granting parole, the efficiency of the parole officers. The quasi-judicial authorities should exercise the function to grant parole judicially and humanly to make parole as a correctional device to achieve its objective for which it is being recognised as an important reformatory process in the states which follow the aspect of constitutionalism not on paper but in reality, for criminals. As it is this hypothesis that once a criminal will always be a criminal' cannot be always relied upon by the competent authorities who are exercising the function to grant parole.

CHAPTER-3

"LEGISLATIVE FRAMEWORK GOVERNING PAROLE"

3. Introduction

The use of parole is a therapeutic strategy for criminals' rehabilitation. Given that it is used against people who have been found guilty by a court of law, the technique needs to be used with caution.

Background

Legislative provisions on parole and other comparable practises, such as furlough, probation, etc., have been made in India as a result of legislative efforts in other nations. Actually, prison reformist movements in India have had a direct impact on parole. However, no social movement produced the prison reforms. They were caused by the worst prison conditions and the growing significance of providing prisoners with reformatory care. Parole complies in full with all applicable penal laws.

Professor Pranjape notes:

It must be acknowledged that India's post-Independence era saw a growing awareness of the need for a shift in how offenders are treated. The importance of the psycho-social environment in the field of corrections cannot be overstated given our advanced understanding of human behaviour (Pranjape, 2001).

As a result, parole plays a big role in the criminal justice system's approach to treating offenders. There are enough legal guidelines for parole in other nations as well. In this nation, the review of sentences undertaken in accordance with the social enactments, rules, or regulations formulated by the government serves to achieve parole's goal as it is understood internationally. (Srivastava, 1987) Therefore, parole and other reformatory methods like furlough, annual leave, etc. are widely accepted.

3.1 Legislative background

Many Good Conduct Laws were passed in India at the end of the first quarter of the 20th century for the release of prisoners under the influence of reformist philosophy. When the Punjab Prisoners Probational Release for Good Conduct Act was passed in 1926, the Punjab was the first state to implement it. The Act allowed for the conditional release of good-conduct inmates from prison in some circumstances before the expiration of their sentenced terms of incarceration. (The Good Conduct Prisoners Probational Release Act, 1926).

Later, other provinces such as Assam (1938), the United Provinces (UP) (1938), the Central Provinces and Berar (1939) (Madan, 2003) also passed good conduct laws. The conditional release of prisoners from prison prior to the end of their sentence was also made possible by the 1938 Uttar Pradesh Prisoner's Release on Probation Act. (Madan, 2003) If the government was satisfied with a prisoner's behaviour, it could release him with a licence. He would be placed under the care of a government official, a member of a secular organisation that practises the same religion as the prisoner, or anyone else who was willing to take charge of him. A further two years' imprisonment, a fine of up to Rs. 2,000, or both could be imposed on anyone who evaded supervision or failed to report to prison after a licence was revoked, in addition to the original sentence's remaining time (Madan, 2003).

The ticket of leave (Release) Rule was also created by the Uttar Pradesh government in 1950 under Section 401 of the previous Code of Criminal Procedure, 1898 which has since been repealed. According to these regulations, any prisoner could request release from custody from the State Government, with the exception of those who had committed certain offences, such as those against the State or involving the Indian Armed Forces. Anyone serving a sentence of three years or more may be released on a personal bond with sureties for a period of time not to exceed one month. The District Magistrate was to submit the application to the Inspector General of Prisons, and a Board of Release was to ultimately decide the case. If the Board agreed, the State Government would issue the ticket in three copies and appoint a guardian, who could be a government employee, another person, a member of a secular organisation or society, or a probation officer. The Guardian was given charge of this prisoner, and it was his responsibility to monitor his

behaviour and see that the terms of the ticket were followed (Code of Criminal Procedure, 1898).

If there is a violation of the conditions, the person in charge may report it to the District Magistrate. The District Magistrate will then summon the offender if there has been a violation and will then recommend to the State Government whether the ticket should be revoked. In the event that a ticket is revoked. His arrest and detention in custody pending state government orders was to be ordered by the district magistrate.

The Central Provinces and Berar Prisoner's Act of 1939 also allowed for the temporary release of prisoners in this manner. Any prisoner serving a sentence of at least three years may, under the terms of this Act, be released for a maximum of ten days each year.

The topic of prison reforms has been covered in numerous Acts. In order to change the law pertaining to prisons, the Prison's Act, 1894 was passed (The Prisons Act, 1894). In this context, Section 59 of the Prisons Act of 1894 is crucial. The State Government is granted authority under Section 59 to make rules that are compliant with the Act (The Prisons Act, 1894, S. 59). To unify the law governing people who are imprisoned on a court order, the Prisoner's Act, 1900 was also passed.

The Punjab Good Conduct Prisoner's (Temporary Release) Act, passed in 1962, outlines the terms and conditions for the temporary release of prisoners for good behaviour (Punjab Good Conduct Prisoners Act, 1962). The Himachal Pradesh Good Conduct Prisoners (Temporary Release) Act, 1968 was subsequently passed to establish the terms for the temporary release of prisoners with good conduct. The Act had eleven sections (Himachal Pradesh Good Conduct Prisoner's Act, 1968).

In order to allow for the temporary release of prisoners with good conduct under specific conditions, the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988, was also passed (Haryana Good Conduct Prisoners (Temporary Release) Act, 1988.). The West Bengal Legislature passed the West Bengal Correctional Services Act in 1992 to update and reorganise the law governing West Bengal's jails and inmates. It encompasses the entirety of West Bengal (West Bengal Correctional Services Act, 1992).

3.2 Current legal situation

Laws governing restorative measures like parole and furloughs appear to have evolved in a crisscross pattern. The current section analyses the legal stance on parole and

comparable methods. It takes into account the rules that have any bearing on how these techniques operate, whether directly or indirectly.

Constitutional provisions

The parole issue should also be viewed from a constitutional standpoint. The constitution contains a few clauses that deal with prisons, inmates, and prison reforms. As a result, this section's relevance to parole is examined. According to Entry 4 List II of the Seventh Schedule to the Constitution, the State's legislative power may only be used to address prisons and inmates; it may never shorten judicial sentences (*Maru Ram v. Union of India*, 1980). The topic of prisons and prisoners does not address sentence reductions as a means of release. Even though the sentence is for a fixed term and remission plus the time served equals that the prisoner may be freed, it falls under criminal procedure in Entry 2 of List III (*Maru Ram v. Union of India*, 1980).

One tenet of our constitutional law is that all power is trust and that the use of it arbitrarily is ultra-virus. As a result, while the state may have the authority to grant parole, partial release, remission, suspension, and early termination of imprisonment under Section 432 of the Criminal Procedure Code of 1973 (Now 473 BNSS, 2023) and Article 161 of the constitution (Article 161). The power to grant parole, partial release, remission, suspension, and premature termination of an individual's incarceration, as well as the ability to suspend or remit a sentence (Iyer, 2010). This activity absolutely cannot be left up to chance and must always be directed by clear principles. The spirit and temperament of our constitution certify that arbitrary cruelty to the prisoner and a negative attitude toward the individual's ability to reform are repugnant (*Maru Ram v. UOI*, 1980).

The Code of Criminal Procedure's provisions

If the later power under the constitution is not used, the only source of authority is power under Sections 432 and 433. (Now 473 and 474 of BNSS, 2023) Once a sentence has been imposed, the only way to terminate it before the stipulated term is by action under Sections 432 and 433 (Now 473 and 474 of BNSS, 2023) of the Criminal Procedure Code, 1973, or Article 72 or 161 of the constitution.

Following a pardon, the accused is released from punishment and is presumed to be innocent of the crime. However, the sentence reduction or suspension has no such impact. A remission or suspension order has no bearing whatsoever on the court's order. The

order of conviction and sentence imposed by the court remain in effect, but it only affects how the sentence is carried out and releases the convicted person from having to serve the entire term of imprisonment (Mishra, 2009).

The old Criminal Procedure Code, 1898's Section 401 addressed the authority to suspend or commute sentences. It stated that if an application was made to the appropriate Government for the suspension or remission of a sentence, the appropriate Government would at any time, with or without conditions, suspend the execution of that person's sentence or remit the entirety of the punishment to which he had been sentenced. The Presiding Judge of the court that confirmed the conviction must express his opinion on whether or not the application should be granted, according to the appropriate Government. The person in whose favour the sentence had been suspended or remitted could then be arrested by any police officer without a warrant and remanded to serve the remaining portion of the sentence if any of the conditions on which a sentence had been suspended were not met. The appropriate Government had the power to cancel the suspension or remission (Section 401, Code of Criminal Procedure, 1898).

The ability to commute the punishment was covered in Section 402 of the previous Criminal Procedure Code from 1898. According to it, the appropriate Government may, without the guilty party's consent, commute any of the following sentences for any other mentioned after them: death transportation, life imprisonment, rigorous imprisonment for a term not exceeding that to which he might have been sentenced, simple imprisonment for a like term, fine.

There are some provisions in the 1973 Code of Criminal Procedure. The ability to suspend or commute sentences is covered in Section 432 (Now 473 of BNSS, 2023) of the Criminal Procedure Code, 1973, which is comparable to Section 401 of the previous code, 1898. It gives the appropriate government the authority to impose conditions on any reduction in sentence or suspension of execution. Whenever a request for the suspension or remission of a sentence is made to the appropriate Government, the Government may ask the presiding Judge of the court before or by which the sentence was confirmed for his opinion on whether the request should be granted or denied. The person in whose favour the sentence has been suspended or remitted may be arrested by any police officer without a warrant and remanded to undergo the remaining portion of

the sentence if any condition is not met, and the appropriate Government may then cancel the suspension or remission. (Section 432 (5) Now 473(5) of BNSS, 2023)

Section 433 ((Now 474 of BNSS, 2023) of the Criminal Procedure Code, 1973, which is analogous to or succeeds Section 402 of the old Code, 1898, gives the appropriate government the power to commute: (a) a sentence of death for any other punishment provided under the Indian Penal Code; (b) a sentence of life imprisonment for a term not exceeding 14 years or a fine; and (c) a sentence of life imprisonment for any other punishment. (c) a sentence of arduous incarceration in place of a sentence of simple incarceration or a fine, or (d) a sentence of simple incarceration or a fine (Section 433, Code of Criminal Procedure, 1973).

In certain circumstances, the powers of remission or commutation are restricted under Section 433A (Now 475 of BNSS, 2023) by a 1978 amendment act, this section was added to the Code of Criminal Procedure, 1973. It states that a person who has been given a life sentence for a crime for which the death penalty is one of the punishments or whose death sentence has been changed to a life sentence under Section 433 cannot be released from prison until he has served at least 14 years.

The exercise of function of parole is a quasi-judicial function exercised by the administrative authorities. The quasi-judicial function exercised by the administrative or executive authorities involves the application of judicial mind.

Quai judicial may be understood as a term that is “not easily definable. In the United States, the phrase often covers judicial decisions taken by an administrative agency. The test is the nature of the tribunal rather than what it is doing. In England quasi-judicial belongs to the administrative category and is used to cover situations where the administrator is bound by the law to observe certain forms and possibly hold a public hearing but where he is a free agent in reaching the final decision. If the rules are broken, the determination may be set aside, but it is not sufficient to show that the administration is biased in favour of a certain policy, or that the evidence points to a different conclusion.”. (Paton & Derham, 1972).

It can be said to be a function that resembles the judicial function in that it involves deciding a dispute and ascertaining the facts and any relevant law, but differs in that it depends ultimately on the exercise of an executive discretion rather than the application of law. (Martin, 2003)

3.3 Prison Manuals

The prison manuals include a few provisions regarding parole.

3.4 Delhi Jail Guide

During the pre- and post-independence era, or up until 1988, the Delhi Government was totally dependent upon the Punjab State Administration for regulation of the day-to-day operation of the Delhi Jails. The Punjab Jail Manual, a manual for the Superintendence and Management of the jails of Punjab State, now governs the Management and Maintenance of jails in the National Capital Territory of Delhi. The "Delhi Prison Rules," which were announced in 1988 by the Lt. Governor of the National Capital of Delhi, govern the upkeep and supervision of Delhi's jails. The Prisons Act of 1894 (IX of 1894) gave legislators the authority to enact the Delhi Prison Rules. The Delhi Jail Manual is a compilation of the Delhi Prison Rules, Orders, and Related Acts, Rules, and Regulations for the Maintenance and Superintendence of Prisons in the National Capital Territory of Delhi, and the Punjab Jail Manual must be used to deal with any issues not covered by the Delhi Prison Rules, 1988.

The Delhi Jail Manual is split into two sections. The Delhi Prison Act, 2000 and related prison rules, as well as orders and official directives regarding parole and furlough, premature releases, and court judgement related to these matters, are covered in the first part. Appendices in the second part are important when discussing the rules and directives in the first part. The Delhi Jail Manual contains some provisions regarding parole and furlough. The Delhi Jail Manual's Chapter 18 covers furloughs and parole releases. The Delhi government offers parole or furlough in the following ways:

Parole

In cases of serious illness or death of any member of the prisoner's family or his closest relatives, it states that a prisoner may be released on parole for the length of time that the government may order. Similar to this, a prisoner may be released on parole for a maximum of four weeks in order to plan the marriage of his issue. The time spent on parole will not be included in the sentence calculation. The Superintendent of Jail must personally confirm the information provided in a prisoner's application for parole from sources such as family members or friends before forwarding it to the D.M. along with the prisoner's descriptive roll. Delhi, for additional confirmation of the justifications for

the requested parole release. In relation to the public peace and tranquilly, he also made recommendations about whether or not the prisoner should be released on parole, regardless of the nature of the crime committed by the prisoner. If the Chief Commissioner recommends release, the District Magistrate will send his recommendations directly to the Delhi Administration, which will then forward the case to the Government of India for their orders. The District Magistrate in Delhi, the Superintendent of the Concerned Jail, and the Inspector General of Prisons, Punjab, Ambala, will all receive notice of the Government of India's order. The prisoner is responsible for covering his own travel costs to and from the facility.

To the satisfaction of the District Magistrate, the prisoner and his sureties will execute bonds for the upkeep of good behaviour during the period of parole and for return to jail upon parole expiration. The District Magistrate will make recommendations regarding the personal bond and surety bonds based on the prisoner's sentence, the nature of the offence, and the length of the sentence.

The parole described in Part 1 above was amended in 1963 by letter No. F.18/59/62-Home, dated September 16, 1963. A prisoner may be granted parole for the length of time that the Chief Commissioner of Delhi may specify. Parole must be allowed for:

- a) Observing any sick or terminally ill family member;
- b) Any other sufficient reason, such as the prisoner's marriage or the marriage of any other family member, such as a son, daughter, sister, or brother;
- c) For building a house; and
- d) To fix a seriously damaged house.

His sentence will not include the time he spent on parole.

The topic of furlough is covered in Part II of Chapter VIM of this section of the Manual. It is important to understand the distinction between furlough and parole as well as how some of their related issues are handled. (1) A prisoner who is sentenced to five years or more of incarceration and has already served three years behind bars without receiving remission may be released on furlough. The first spell may be for three weeks, and subsequent spells will be for two weeks each annually if the following requirements are met:

a) He has maintained good behaviour while incarcerated, has received three annual good conduct remissions, and has demonstrated good behaviour while incarcerated;

b) He does not commit crimes frequently;

c) He is not found guilty of violent robbery, dacoity, or arson;

d) He is not someone whose presence the District Magistrate of his home District deems to be extremely dangerous or detrimental to the public peace and tranquilly.

(2) With the exception of any time the prisoner commits a crime outside of prison, the period of furlough counts as time served. The time spent on furlough will be considered a component of the jail sentence.

The prisoner may receive any of the ensuing penalties for exceeding their parole or furlough period.

Parole: If the prisoner is found to have violated Section 224 of the Indian Penal Code, 1860, he may be prosecuted with the support of the government and will lose all remissions earned (Section 224, Indian Penal Code, 1860).

Furlough requirements include the following: (a) a warning; (b) withholding concessions of interviews or letters, or both, for a maximum of six months; (c) a maximum cut of five days for each day of overstay; and (d) the furlough period should not be counted towards the prisoner's sentence, meaning the furlough period should be completed when the prisoner returns from furlough.

One or more of the aforementioned penalties may be imposed at the Superintendent of Jail's discretion. Premature release of life prisoners is addressed in Chapter 19 of the Delhi Jail Manual and is covered by Sections 432, 433, and 433 A (after Amendment) of the Code of Criminal Procedure, 1973, as well as Paragraph 516-B of the Punjab Jail Manual as being applicable and in use in Delhi Jails. The guidelines for parole and furlough in the jail manuals for Punjab and Himachal Pradesh are exactly the same as those in the jail manual for Delhi. The State Government is given the authority to establish rules regarding sentence reduction, parole release, early release, jail reforms, etc. under Section 59 of the Prison Act of 1894. The Delhi Prisons Act, 2000, which is specific to the National Capital Territory of Delhi, was passed in 2000. Section 73 of the

Delhi Prisons Act, 2000 declares the repeal of the Prisons Act, 1894 (IX of 1894) as it applied to Delhi.

3.4.1 Guidelines for Parole/Furlough, 2010

The Delhi Administration has established rules for the management and operation of the parole system. There were some gaps, though, and the Delhi High Court ordered the government to create new regulations as a result. The Delhi High Court implemented parole regulations after it became widely believed that Manu Sharma, a murderer, had received parole with little difficulty (Manu Sharma v. State of Delhi, 2010). The court had requested that the solicitor general, Gopal Subramaniam, assist the government in changing the laws after noticing that poor people who applied for parole were denied it while the "rich" were let go. The government had been too strict with the first draughts, making parole unavailable to all categories of convicts, and the courts did not approve them. Gopal Subramaniam, the solicitor general, assured the Division bench, presided over by chief Justice A.P. Shah, that the new set of guidelines, titled the Parole/Furlough Guidelines 2010, addressed all pertinent issues. The Lieutenant Governor gave his approval, and the document went into effect right away. For the first time, the guidelines establish a deadline by which all relevant authorities must process and resolve parole requests.

(I) Purposes

The current regulations are designed to control parole applications and make sure they are handled fairly and openly. The rules have been designed to accomplish the goals of parole, including:

- a) To strengthen continuity with family;
- b) To keep at least a minimal level of confidence and self-worth;
- c) To cultivate a positive outlook and a keen interest in life;
- d) To relieve internal tension; and
- e) To keep social ties safe.

A prisoner will be qualified for one of two types of parole.

- A. Custody Parole and
- B. Regular Parole

(A) Parole in Custody

In urgent situations, such as a death, a marriage, a family member's serious illness, or any other emergency situation, custody parole would be granted. In terms of the procedure, as soon as the application is received, the Superintendent of Jail contacts the relevant Police station to inquire about the existence of the circumstances outlined in clause 5. The Superintendent of the jail will issue a written order granting custody parole. It lasts no longer than six hours, not including travel time to the destination and back to the jail. To ensure his or her safety, the prisoner would be escorted to and from the visitation location. Such a period would be regarded as having occurred while incarcerated. It would be considered time served in prison.

Regular Parole

In the case of regular parole, the government would be free to take into account requests for release on other grounds, such as serious illness or critical conditions in the family as a result of an accident or the death of a family member, marriage of any family member, childbirth by the convict's wife if there is no other family member to care for the spouse at home, or serious damage to the life or property of the convict's family, including damages from a natural disaster.

The guidelines also make it clear that parole will not be granted in cases where an appeal is being heard by the High Court because the convict may be able to obtain the necessary orders from the High Court.

(a) Eligibility for Parole Release

For someone to be qualified for parole release:

- i. A prisoner must have served at least one year in prison, not including any time off for good behaviour;
- ii. There must have been good behaviour in prison;
- iii. If parole was granted earlier, the convict should not have committed any crimes during that time period and should not have broken any parole rules;
- iv. At least six months should have passed since the previous parole was terminated.

(b) Ineligible for Parole Release

The following criteria must be met in order for the convicts to be released on parole:

- i. who pose a danger or threat to national security, have committed crimes or offences against the state like sedition, have escaped from custody, or are not Indian citizens;
- ii. If the defendant is found guilty of murder following a rape;
- iii. kidnapping and murder; and
- iv. Numerous homicides

On such grounds, parole would typically not be granted, unless, in the competent authority's discretion, special circumstances exist for the grant of parole. The co-accused convicts in a case who are housed in the same prison will not be released at the same time unless there are special circumstances that must be mentioned in the order granting parole. Unless there are exceptional circumstances, the length of parole cannot exceed one month at a time. Depending on the merits of each case, the government will choose the length of release.

(c) Application Disposition Process

The inmate or a member of their family may submit an application for parole to the superintendent of jail. Name, address, and the applicant's justification for the request for parole must all be included in the application. A register of parolees will be kept by the jail superintendent. Immediately after receiving the application, he would make an entry in the register for parole, and after speaking with the prisoner orally, he would confirm the reasons given in the application. After that, he would send a copy of the application to the relevant police station for its report, and that report would be based on an impartial investigation. If the report is not received within 7 days from the concerned police station, the Superintendent of Jail will send a written communication to the Deputy Commissioner of Police of the concerned District with a copy to the concerned police station. The report by police station (if within NCR) shall be furnished by the concerned police station in the format prescribed in the schedule.

If a verification report from a police station in another state is necessary, the relevant deputy commissioner of police should be contacted. Within ten days of receiving a copy of the parole application, the concerned authority is required to provide the aforementioned report. If the report isn't received within ten days, the jail's

superintendent must send a written request to the state's director general of police, requesting that the report be submitted within seven working days of receiving the request. It will be assumed that the relevant police authorities have no objections to parole being granted if the Superintendent of Jail does not receive a report within the allotted time. After that, the application would need to be forwarded right away to the Deputy Secretary Home (General) Government of NCT of Delhi with a note stating that no report had been received and that there was no opposition to the granting of parole. The application would then need to be decided on the basis of its merits.

When a report is not received within the allotted time period, the jail superintendent must make an entry in a separate register. He must inform the Delhi police commissioner or the relevant state's director general of police of these details. The application of the convict, any police reports that may have been filed, a forwarding note if no reports have been filed, the Superintendent of Jail's specific recommendation, the nominal rolls of the convict, any medical reports that may have been filed and any other pertinent documents will be forwarded to the Deputy Secretary of Home (General) by the Jail Superintendent.

The Deputy Secretary of the Home (General) NCT will keep track of all applications received, examine them, and make sure that the Home Department makes a decision on the application for parole within three weeks. The Superintendent of the jail will be informed of the decision, who will then inform the prisoner. The jail's superintendent will see to it that the prisoner receives a copy of the order. The competent authority would be free to impose appropriate conditions when granting parole, while the order must include justifications when rejecting a parole application. If a prisoner has been granted parole with the requirement that he post personal and/or surety bonds, this must satisfy the jail superintendent.

Furlough

A prisoner who has served three years in prison without receiving remission but has been sentenced to five years or more of rigorous imprisonment may be released on furlough and is eligible for seven weeks of furlough each year. The first spell might last for three weeks, and the following spells might each last for two weeks.

(a) Eligibility to Obtain Furlough

The prisoner must maintain good behaviour while incarcerated, have earned "Three Annual Good Conduct Remissions," and be eligible for furlough. He must not be a repeat offender, be an Indian citizen, and not have been convicted of crimes against the state like sedition or crimes against the person such as robbery, dacoity, arson, kidnapping, abduction, rape, or extortion. His release must also not be deemed dangerous to the interests of national security. The District Magistrate to his home district does not deem the convict to be someone whose presence is seriously dangerous to public peace and tranquilly. Furlough would not be granted if the High Court is currently hearing an appeal or if the deadline for filing an appeal is still open.

(b) The Application Disposal Process

The Superintendent of Jail will send information about the convict's name, last known address, behaviour in prison, and nominal roll when forwarding an application for a furlough. The Director General of Prisons would approve any furloughs after notifying the Home Department of the Government of the NCT. The Superintendent of Jail will expeditiously close out the furlough cases in a matter of two weeks. The competent authority is free to impose appropriate restrictions while granting a furlough. The concerned police must be asked to keep an eye on the prisoner being released if he or she is a resident of any other state.

To handle all cases and applications for parole and furlough, the Director General of Prisons will maintain a computerised database. The competent authority will consider both potential negative consequences of granting parole as well as the convict's behaviour and trustworthiness when deciding whether to grant parole or furlough. If the application is denied, the authority may act fairly and provide justifications. The prisoner would be responsible for covering the costs of travel to and from the facility. If the prisoner's family is underprivileged, the government will cover the cost of travel. However, the District Magistrate of the District where the family resides must certify this fact. Unless the prisoner commits an offence while on parole or furlough, in which case the period will not be counted as time served, the period of parole or furlough counts as time served.

(III) Repercussions for exceeding a parole or furlough term

For exceeding the length of their parole or furlough, inmates may receive punishment. If the prisoner is granted parole, he or she may be considered to have violated Section 224 of the Indian Penal Code, 1860 (Now 262 of BNSS, 2023) and may be prosecuted with

government approval; in this scenario, the prisoner would lose all earned remissions. In the event of a furlough, warning, withholding of concession of interviews or letters, or both, for a maximum of 6 months, deduction of up to 5 days remission for each day of overstay, the furlough period should be counted towards the sentence; that is, the prisoner should experience the furlough period upon returning from the furlough. One or more of the aforementioned penalties may be imposed by the jail's superintendent at his or her discretion. A booklet containing the current regulations would be given to the prisoner upon admission of the convict as a prisoner. The aforementioned instructions will be provided in both Hindi and English. If the offender is unable to communicate in Hindi or English, appropriate assistance will be given to explain the guidelines' contents.

Parole works to achieve the goals of rehabilitation for offenders and involves carefully selecting offenders for supervision outside of prison. After serving a significant portion of his or her sentence, the defendant is freed. Additionally, there are some restrictions on the release. Studying the nature and history of parole is thus necessary. A matrix for evaluating the current legal position on parole in India would be provided by a study of its history and place in the world.

Generally speaking, state laws, rules made thereunder, and the relevant State Jail Manual govern parole. In India, Good Conduct Acts were passed in order to release prisoners. When the Punjab Prisoner's Probational Release for Good Conduct Act was passed in 1926, the Punjab was the first state to implement it (Jindal, 1987). Later, similar laws were passed in other states as well, including Assam (1939) and U.P. (both from 1938) and the Central Provinces and Berar Prisoner's Act (both from 1939) (Madan, 2003).

The Prisons Act of 1894, the Prisoners Act of 1900, and the Punjab Good Conduct Prisoners (Temporary Release) Act of 1962 are just a few of the laws that have been passed by legislatures that address prison reform. The Himachal Pradesh Good Conduct Prisoners (Temporary Release) Act, passed in 1968, serves as the state of Himachal Pradesh's official legal position. Parole is covered in Section 3 of the Himachal Pradesh Good Conduct Prisoner's (Temporary Release) Act, 1968. It states that if the State Government is convinced that the reasons listed in the aforementioned section exist, it may, after consulting with the District Magistrate, release any prisoner on temporary release for a predetermined period. According to the section, a prisoner may be released if a family member has passed away or is gravely ill, if the prisoner's daughter or son is

getting married, if it is necessary to plough, sow, or harvest his land, or if it is necessary for any other agricultural operation to be conducted on his property. The maximum release period is two weeks in cases of death or serious illness and four weeks in cases of marriage or other good reason. A prisoner's period of release is not included in the overall length of their sentence (The Himachal Pradesh Good Conduct Prisoners (Temporary Release) Act, 1968).

State laws on parole differ from one another. Therefore, it is essential to research the applicable legal framework. Additionally, whether or not the legislative policy on the matter is clear needs to be ascertained. It must be determined whether the law governing parole displays consistent trends or a state of confusion. The push for adopting alternatives to imprisonment has made parole and similar therapeutic techniques more popular.

The courts have heard arguments regarding paroles. For instance, the High Court recommended annual vocation for a life convict in (*Gurdeep Bagga v. Delhi Administration*, 1987) even though the Competent Authority had denied the parole to the life convict. Therefore, it is necessary to assess whether parole is a useful method of handling offenders or an efficient therapeutic approach to treating criminals. Whether there is a disconnect between individual liberty (parole) and societal security. Is it necessary to update the parole laws in order to preserve the harmony between parole and societal security?

It needs to be determined whether the courts actually recognise its value or just give it lip service. What is the legal opinion on the parole-related issue needs to be ascertained. The decision to grant parole is a very delicate one. It involves both societal safety and individual freedom (parole). Therefore, parole should not be viewed as a form of leniency but rather as a therapeutic method created to fulfil specific social goals. The study looks at two things: first, whether parole is an effective way to deal with offenders, and second, how society and the legal system have responded to problems with or related to parole. The project's goal is to make parole an even better way to deal with offenders.

Members of society are impacted both directly and indirectly by court decisions and laws. They frequently have far-reaching effects. Finding out the public's opinion on parole-related issues is thus necessary.

The effectiveness of the supervision in India is crucial to the parole program's success. The methods of supervision are insufficient or ineffective. If prisoner selection and parolee supervision were improved, more positive outcomes might be attained. If the method is used after accounting for all significant factors pertaining to parole and the prisoners who are granted parole, it might be profitable. The study concludes that in this case, the authorities generally and mechanically exercise their authority. If a fault continues, societal issues will continue. On the grounds that a prisoner's release on parole would jeopardise their social security, parole cannot be denied. It is important to keep or keep in mind the constitutional perspective when analysing the parole issue. According to the rules, the Parole Board, ADGP, DM, and IG Prison typically grant parole. To make the parole system useful to society in general and the parolees in particular, the emphasis in the system must be on supervision as well as guidance and assistance to the parolee.

Before being released on parole, the parolees must be thoroughly prepared for parole administration. When released on parole, the parolees must be guaranteed an honourable job and a comfortable environment. They will gain hope, self-assurance, and social responsibility as a result of this. Additionally, it would aid them in getting over their ex-conviction complex. Through a number of social organisations, parolees must be rehabilitated within society. The public should actively assist the parole authorities in completing this task. Political influence should not be allowed to affect the parole boards in any way. People with integrity and demonstrated ability ought to be appointed to these boards. They ought to be fully qualified officials. The personnel working for the parole agency should all be full-time employees. Personnel who are well trained and qualified ought to be needed for this position. The person will be sent back to the institution for parole violations. There are numerous repercussions for violating parole. If he returns past the deadline in accordance with the rules established in this regard, a fine in the form of a reduction in some remissions earned by him is imposed. Likewise, he would receive the appropriate punishment if a new crime was committed. The judicial strategy demonstrates that the courts are lenient when it comes to parole and related issues. It is also regarded as a charitable approach to dealing with offenders.

The legal approach to parole appears to be very positive. The value and effectiveness of parole as a corrective measure are supported by the courts. The courts have occasionally given pertinent instructions. For instance, the court showed a humane touch in *Gurdeep Bagga (Bagga, G. v. Delhi Administration, 1987)* by granting annual leave despite the

fact that parole was denied. When other options were not available, the Courts have occasionally granted parole on the basis of mercy. For instance, in Gurdeep Bagga, the High Court recommended an annual vacation for the life convict despite the parole being denied to him. In most of the cases that have gone before the courts, the parole was requested for specific reasons, such as taking part in a relative's wedding, the death of close relatives, the prisoner's illness, the illness of any family members, etc. The courts have treated offenders on parole with compassion. It can be seen by the fact that in cases where the surrender was not made on time, the courts have invalidated the imposition of punishment on technical grounds, such as a violation of natural justice principles.

3.5 Grant of parole/leave rules of Madhya Pradesh

The law related to parole is governed by the respective states and as the research study has special reference to state of Madhya Pradesh and the empirical research is being conducted in the state by visiting 4 jails in the District of Bhopal, Katni, Narsinghpur and Jabalpur. The law governing the state is the Prison Act, 1894 Prisoners Act, 1900 and M.P. Prisoners Leave Rules, 1989. The last amendment to the M.P. Prisoners Leave Rules, 1989 was in the year 2021 which was published on 23.10.2021.

Before the M.P. Prisoners Leave Rules, 1989 the law governing the same was the Prison Rules, M.P., 1968 which was replaced by the Prisoners (MP. Amendment) Act, 1985.

The Prisoners Act, 1900 was enacted to consolidate the several Acts relating to prisoners confined by order of a Court. Section 31 of the Act relates to grant of leave to the prisoners. The State Government has enacted specific Rules known as “The M.P Prisoner's Leave Rules, 1989 in respect of grant of leave to the prisoners in exercise of its powers conferred upon it under the provisions of the Prisoners Act, 1900. In the In the State of Madhya Pradesh, Part VI-A has been inserted to the Prisoners Act, 1900 by the M.P. Amendment Act which provides for leave and emergency leave to prisoners and the same to is still in application to the State of Chhattisgarh. (Ratan Das Vs. State of Chhattisgarh and Ors, 2021)

Section 31A to Section 31E has been substituted which provides as under

1. Section 31-A. Grant of leave to Prisoners.
2. Section 31-B. Power to grant leave to prisoners on grounds of emergency

3. Section 31-C. Surrender by prisoner after the leave period
4. Section 31-D. Penalty.
5. Section 31-E. Power to make rule.

As per the data of the National Crime Records Bureau, Ministry of Home Affairs, Government of India published in the year 2022, a total of 25,546 persons were released on parole, maximum of such parole releases was reported by Madhya Pradesh (6,552) followed by Punjab (4,300) and Haryana (3,214). As per the data 498 prisoners who were released on parole had also absconded and only 238 could be re-arrested by the agencies. (Prison Statistics India, 2022)

As per the data provided by the different states the table is as under:

Sl. No.	State/UT	Released on Parole				Parole Absconders				Parole Absconders Arrested			
		M	F	T	T	M	F	T	T	M	F	T	T
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
1	ANDHR A PRADE SH	130	3	0	13	0	0	0	0	0	0	0	0
2	ARUNA CHAL	0	0	0	0	0	0	0	0	0	0	0	0

	PRADESH												
3	ASSAM	0	0	0	0	0	0	0	0	0	0	0	0
4	BIHAR	5	1	0	6	1	0	0	1	1	0	0	1
5	CHHATTISGARH	1	3	0	1	1	0	0	1	3	0	0	3
		6	6		6	6			6				
		5			8								
		2			8								
6	GOA	0	0	0	0	0	0	0	0	0	0	0	0
7	GUJARAT	2	1	0	3	2	3	0	2	1	3	0	1
		9	4		0	3			3	1			2
		2	1		7	4			7	8			1
		9			0								
8	HARYANA	3	1	0	3	2	1	0	2	1	0	0	1
		1	1		2	2			3	4			4
		0	2		1								
		2			4								
9	HIMACHAL PRADESH	3	1	0	3	5	0	0	5	2	0	0	2
		1	6		3								
		8			4								
10	JHARKHAND	9	3	0	9	0	0	0	0	0	0	0	0
		3			6								
11	KARNATAKA	3	1	0	3	4	1	0	5	7	1	0	8
		0	1		1								
		2			3								
12	KERALA	4	1	0	5	1	0	0	1	4	0	0	4
		9	2		0	3			3				
		2			4								

13	MADH YA PRADE SH	6 3 1 4	2 3 8	0 	6 5 5 2	2 5 	0 	0 	2 5 	1 6 	0 	0 	1 6
14	MAHA RASHT RA	2 7 4	5 	0 	2 7 9	7 8 	2 	0 	8 0 	4 0 	0 	0 	4 0
15	MANIP UR	0	0	0	0	0	0	0	0	0	0	0	0
16	MEGHA LAYA	0	0	0	0	0	0	0	0	0	0	0	0
17	MIZOR AM	2	0	0	2	0	0	0	0	0	0	0	0
18	NAGAL AND	0	0	0	0	0	0	0	0	0	0	0	0
19	ODISH A	6 9	4	0	7 3	1	0	0	1	0	0	0	0
20	PUNJA B	4 1 1 9	1 8 1	0 	4 3 0 0	4 1 	0 	0 	4 1 	1 9 	0 	0 	1 9
21	RAJAST HAN	7 1 6	5	0	7 2 1	6	0	0	6	2	0	0	2
22	SIKKIM	0	0	0	0	0	0	0	0	0	0	0	0
23	TAMIL NADU	2 3 4 6	5	0	2 3 5 1	4	0	0	4	3	0	0	3

24	TELANGANA	4	1	0	4	9	0	0	9	3	0	0	3
		4	4		6								
		6			0								
25	TRIPURA	1	0	0	1	0	0	0	0	0	0	0	0
		5			5								
26	UTTAR PRADESH	0	0	0	0	0	0	0	0	0	0	0	0
27	UTTARAKHAND	8	2	0	9	1	0	0	1	0	0	0	0
		9			1								
28	WEST BENGAL	9	5	0	1	2	1	0	3	2	0	0	2
		5	7		0	9			0				
		2			0								
					9								
	TOTAL	2	8	0	2	4	8	0	4	2	4	0	2
	(STATE	4	4		5	8			9	3			3
	S)	3	6		2	9			7	4			8
		6			1								
		5			1								
29	A & N ISLANDS	0	0	0	0	0	0	0	0	0	0	0	0
30	CHANDIGARH	1	8	0	1	1	0	0	1	0	0	0	0
		2			2								
		1			9								
31	DNH & DAMAN DIU	0	0	0	0	0	0	0	0	0	0	0	0

32	DELHI	1	2	0	1	0	0	0	0	0	0	0	0
		6			6								
		1			3								
33	JAMMU & KASHM IR	0	0	0	0	0	0	0	0	0	0	0	0
34	LADAK H	0	0	0	0	0	0	0	0	0	0	0	0
35	LAKSH ADWEE P	0	0	0	0	0	0	0	0	0	0	0	0
36	PUDUC HERRY	4	0	0	4	0	0	0	0	0	0	0	0
		3			3								
	TOTAL	3	1	0	3	1	0	0	1	0	0	0	0
	(UTs)	2	0		3								
		5			5								
	TOTAL	2	8	0	2	4	8	0	4	2	4	0	2
	(ALL-	4	5		5	9			9	3			3
	INDIA)	6	6		5	0			8	4			8
		9			4								
		0			6								

Table 2: National Crime Records Bureau, Ministry of Home Affairs, Government of India published in the year 2022

For the state of Madhya Pradesh, the procedure for the grant of Parole is provided from section 31A to section 31E of the Prisoners Act, 1900 (state amendment) read with the M.P Prison Leave Rules, 1989.

Section 31-A of the Prisoners Act, 1900 provides for the grant of leave to prisoners and reads as under —

“(1) Subject to the provisions to this part and to such conditions as may be prescribed, the State Government or any authority to which the State Government may delegate its powers in this behalf may grant leave to any prisoner who has been sentenced to a term of imprisonment of not less than three years, for a period not exceeding forty two days in a year, excluding the time required for journeys to the first place of his visit immediately after departure from the prison and from the place of last visit to the person back.

(2) The provisions of sub-section (1) shall not apply to a prisoner who has been classified as a habitual criminal for the purpose of the rules for the time being in force made under the Prisons Act, 1894 (IX of 1894) and who has more than three previous convictions.

(3) Leave shall not be admissible to a prisoner during a year under sub-section (1)—

(i) for more than three occasions;

(ii) for a period of less than fourteen days; and

(iii) unless a period of three months has elapsed since the expiration of leave last availed of during the year and the commencement of the leave applied for.

(4) No Prisoner shall be granted leave under sub-section (1), unless—

(a) he has at the time of the grant of leave served one-half of his sentence including remission, or a period of not less than two years of his sentence, including remission, whichever is less;

(b) he has not been punished for a prison offence under Section 46 of the Prisons Act, 1894 (IX of 1894) during twelve months preceding the date of commencement of the leave applied for.

(5) The period of leave of a prisoner under sub-section (1) shall count towards the total period of his sentence.

(6) The authority directing the grant of leave to any prisoner under sub-section (1) may require him to enter into a bond with or without sureties for due observance of conditions specified in the direction.

(7) If any prisoner granted leave under sub-section (1) fails to fulfil any of the conditions imposed upon him under the said sub-section or in the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to penalty thereof.

(8) If a prisoner has violated the conditions of leave or bond, he shall not be entitled to leave under sub-section (1) during the remaining period of his sentence.”

As Section 31-A of the Prisoners Act, 1900 provides for the grant of leave to prisoners on the other hand Rule of the M.P. Prisoners Leave Rules, 1989 provides for the conditions of leave which read as under

“4. Conditions of Leave.

The prisoners shall be granted leave under sub-section (1) of Section 31-A of the Act on the following conditions, namely:

- (a) He fulfils the conditions laid down in Section 31-A of the Act;
- (b) He has not committed any offences in jail between the date of application for leave and receipt of the order of such leave;
- (c) The releasing authority must be satisfied that the leave may be granted without detriment to the public interest;
- (d) He gives in writing to the Releasing Authority the place or places which he intends to visit during the period of his leave and undertake not to visit any other place during such period without obtaining prior permission of the Releasing Authority in that behalf; and
- (e) He should furnish security to the satisfaction of the Releasing Authority if such security is demanded by the Releasing Authority.”

Further Rule 4A of the M.P. Prisoners Leave Rules, 1989 provides for eligibility for leaves to prisoners which is in consonance with Section 31A of the Prisoners Act, 1900 and the state government by an amendment in the year 2021 inserted sub rule 2 A as also allowed a undertrial prisoner who was punished for a jail offence during his undertrial

confinement, the prisoner after completion of 3 years from the date of punishment for that jail offence and if has not committed any misconduct during the period of undergone sentence shall be eligible for general as well as emergency leave subject to the conditions of leave.

If the Court passes sentence to such undertrial prisoner who has been punished for jail offence during the period of confinement in jail as undertrial prisoner, the said prisoner, on completion of 3 years from the date of punishment for jail offence, being refrained from any misconduct during the period of undergone sentence, shall be eligible for general and emergency leave subject to other relevant conditions."

The state government in the exercise of power conferred to it by section 31E of the Prisoners Act, 1900 read with Rule 19 of the M.P. Prisoners Leave Rule, 1989 has power to relax rules for conditions, eligibility, releasing authority, for grant of leave or parole for the prisoners.

Section 31-E of the Prisoners Act is the power of the State Government to make rules for carrying out the purposes of the Prisoners Act, as power to consider and grant parole to convicted prisoner is essentially the function of executive. (Ratan Das Vs. State of Chhattisgarh and Ors, 2021)

In case if there is any doubt with respect to interpretation of the rules the same is to be referred to the state government whose decision shall be final. (Rule 18, M.P. Prisoner Leave Rules, 1989)

The analysis of the cases shows that the judges have a compassionate attitude towards prisoners and have generally supported the granting of parole. The courts have also emphasised the significance of parole release, which aids in the rehabilitation and reformation of the offender and keeps them from turning bestial and dehumanising. The goal of parole is periodic release. Even for lengthy sentences, parole is preferred. In Dharamvir v. State of U.P, the Supreme Court emphasised the need for long-term prisoners to be released on parole in order to keep them connected to society. The simple reason that the prisoner was unable to provide a security bond or surety bond cannot be used to invalidate their right to parole. Prisoners with a history of good behaviour in custody may be granted parole, but only under certain restrictions and conditions. The use of the parole authority should not be interpreted as an act of mercy, parity, or

clemency. The authority must be used in a fair and sensible manner. It must steer clear of hardship, absurdity, inconvenience, or injustice. (Dharamvir v. State of U.P, 1979)

CHAPTER 4

"JUDICIAL APPROACH TO PAROLE: ROLE AND FUNCTIONING OF QUASI-JUDICIAL AUTHORITIES"

4. Introduction:

In order to preserve family unity, the courts have favoured the idea that prisoners who have been imprisoned or kept in prison for a long time should be released on parole. Authorities in prison have received instructions from the courts, which at least shows that they are becoming more aware of parole. The cases have been broken down into the following categories in order to better understand the judicial approach: grant of parole, refusal of parole, annual leave, parole & special legislations, and distinction between parole and furlough. Other things, etc.

4.1 Delivery of parole

Life Sentences

In *Dharamvir v. State of U.P.*, the Supreme Court emphasised the need for long-term sentences to be commuted to parole, so that they won't be completely isolated from society. The defendant received a life sentence after being found guilty of murder. The Supreme Court determined that parole was preferable in these situations because there was no room for a sentence reduction. It gave instructions to the State Government and the jail authorities that such prisoners could be released on parole once a year for two weeks during their time behind bars, provided that they behaved properly while out on the street. (*Dharamvir v. State of U.P.* 1979)

The validity of section 433A (Now 475 of BNSS,2023) which required at least 14 years of incarceration before the class of prisoners could be released, was questioned when it was inserted into the Criminal Procedure Code of 1973. In *Maru Ram V. Union of India* AIR 1980 SC 2175 the issue was brought before the Supreme Court's constitutional bench. The Supreme Court ruled that even in cases where inmates are found guilty of

committing various heinous crimes, parole should be liberally granted. Because the period of parole was to be counted for calculating the actual period of 14 years imprisonment that a prisoner was required to serve under Section 433 A of the Criminal Procedure Code, 1973, the Section 433 A (Now 475 of BNSS,2023) does not prohibit parole or other releases within the 14-year time frame (Maru Ram V. Union of India, 1980).

In the case of prisoners with good backgrounds, parole may be considered. The petitioner in *Kesar Singh Guleria v. The State of Himachal Pradesh & Ors.* 1985 Cri LJ 1202 was a criminal serving a life sentence. He was detained in Nahan's Model Central Jail. Out of his total imprisonment, he had experienced eight years of actual imprisonment. The petitioner had raised two issues in his complaint: first, the non-consideration of his case for early release in light of the State Government's policy on the matter; and, second, the non-consideration of his case for parole release. Regarding the initial complaint, the state government was obligated to take the case into consideration for pre-mature release. There was no need to issue any additional orders in that regard. Regarding the complaint regarding the denial of parole, the court had issued an order instructing the IG of prisons to review the petitioner's request for parole. Upon receipt of a personal bond and a surety in the amount of Rs. 10,000, he was ordered to be released on parole for a period of six weeks. (*Kesar Singh Guleria v. The State of Himachal Pradesh & Ors.* 1985)

The petition was rejected. The court thought about the issue of the terms and conditions under which a prisoner serving a sentence of imprisonment could be released on parole. The court found that the competent authority charged with having the authority, responsibility, and duty to temporarily release the prisoner on parole or furlough did not adequately understand the true scope and alleged effect of the relevant statutory provisions. The Supreme Court noted in its landmark decision that the releasing authority should keep in mind that the right to be released was not negated simply because the prisoner was unable to provide a security bond or surety bond when exercising the power, function, and duty to temporarily release the prisoner on parole. In cases of poor prisoners, the discretion to waive this requirement should be used while taking other pertinent factors like family ties, community roots, and social conditions, etc. into account. Judge Desai stated:

"The temporary release of a prisoner is primarily intended to serve the same purpose, and parole and furlough are, in principle and in practice, two sides of the same coin. The relevant statutory provisions that relate to the release of a prisoner on parole or furlough recognize that the man who is incarcerated is still a member of his family and society. These provisions allow the prisoner to spend time with his family and participate in community activities. He still has the same human wants, urges, responsibilities, and obligations, and the rehabilitative purpose of sentencing would be advanced by allowing him to fulfil those fundamental human needs and social duties by allowing him to live for brief periods of time in his home as well as in the community. He also has the same human wants, urges, responsibilities, and obligations. Any inmate who has maintained their good behavior while incarcerated may, therefore, apply for parole, but it will be subject to a number of restrictions and prerequisites (*Kesar Singh Guleria v. The State of Himachal Pradesh & Ors.* 1985).

The administration was required by the court to take certain fundamental and guiding considerations into account when putting into practise the pertinent provisions of the Act and Rules and when using the authority relating to the temporary release of prisoners. First off, the relevant statutory provisions used the word "may" in the context of exercising the power of temporary release and gave the Releasing Authority discretion in doing so. Once the circumstances for the exercise were demonstrated to exist, this discretionary power was paired with the legal obligation to exercise it. It was established law that when a power was given to a public official to be used for the benefit of individuals who were named specifically and for whom the statute provided a definition of the circumstances under which they were eligible to request its exercise, that power should be used. It would be required to be used by the court.

The court decided that in order for the administration to fulfil its responsibilities under the relevant provisions of the Act and Rules and to carry out its duties in relation to the powers related to the temporary release of prisoners, it was required to keep certain fundamental and directing considerations in mind. In the first place, the fact that the applicable statutory provisions used the word "may" in the context of the exercise of the power of temporary release and, as a result, gave the Releasing Authority some degree of discretion in the matter. This discretionary power was coupled with the legal obligation to exercise the same power once it was shown that the conditions for the exercise of the power were present. It was common knowledge that a power that was deposited with a

public officer with the intention of it being used for the benefit of persons who were specifically pointed out and with regard to whom a definition was supplied by the statute of the conditions upon which they were entitled to call for the exercise of that power, that power ought to be exercised. This principle was codified in the U.S. Code of Criminal Procedure and was referred to as the "deposit rule." It is necessary for the court to order that it be carried out (*Kesar Singh Guleria v. The State of Himachal Pradesh & Ors.*, 1985).

The court decided that in order for the administration to fulfil its responsibilities under the relevant provisions of the Act and Rules and to carry out its duties in relation to the powers related to the temporary release of prisoners, it was required to keep certain fundamental and directing considerations in mind. In the first place, the fact that the applicable statutory provisions used the word "may" in the context of the exercise of the power of temporary release and, as a result, gave the Releasing Authority some degree of discretion in the matter. This discretionary power was coupled with the legal obligation to exercise the same power once it was shown that the conditions for the exercise of the power were present. It was common knowledge that a power that was deposited with a public officer with the intention of it being used for the benefit of persons who were specifically pointed out and with regard to whom a definition was supplied by the statute of the conditions upon which they were entitled to call for the exercise of that power, that power ought to be exercised. This principle was codified in the U.S. Code of Criminal Procedure and was referred to as the "deposit rule." It is necessary for the court to order that it be carried out (*Busching Schuritz Pvt. Ltd. v. P.T. Menghani*, 1977; *Tireth Singh v. Bachittar Singh*, 1955) .

In the case of *Charanjit Lai v. State (Delhi Administration)* 1985 Cr.LJ 1541 (Del), the Delhi High Court specifically addressed the issue of whether it was legal for the Delhi Administration to refuse to release life convicts on parole or furlough as specified in a letter it had issued (*Charanjit Lai v. State*, 1985). According to the letter, the time spent on parole was not to be included in the sentence, whereas the time spent on furlough was to be included. The Delhi government stopped issuing parole or furlough to lifers. This was contested by the petitioner. The court came to the conclusion that lifers could be released on parole or furlough after reviewing the case law. The court further stated that because Section 433A of the Criminal Procedure Code, 1973 (Now 475 of BNSS, 2023) required those prisoners to serve 14 years in actual prison, they would not be eligible for

the benefit of a period of furlough being counted as a part of their sentence. The observations of the Courts are instructive:

When the issue is viewed from this perspective, there is no reason why even life convicts who are not affected by Section 433A cannot be released on furlough or parole, subject, of course, to them serving at least 14 years of actual imprisonment. When someone is on parole or a furlough, the idea of constructive imprisonment is not even mentioned in Section 433A. (Now 475 of BNSS,2023). (Charanjit Lai v. State, 1985)

In Karam Singh v. State of H.P parole was granted subject to a number of requirements, and the period of parole was to be taken into account when calculating the actual 14 years of imprisonment that the prisoner would have to serve. Those requirements had to be followed by the parolee or else it might be revoked. Given that he wasn't a free man, the benefit of the parole period had to be applied. (Karam Singh v. State of H.P, 1963)

In Chandra Prakash V. The State of NCT of Delhi, the Delhi High Court ruled that the petitioner could not be denied parole in such a situation, particularly since his behaviour in jail over the previous year was deemed to be satisfactory. In this instance, the petitioner asked the Honourable Supreme Court of India for parole for a three-month period in order to maintain social ties with his family. The petitioner had received a life sentence of solitary confinement. The petitioner's attorney suggested that the decision by the Government of the National Capital Territory of Delhi to deny him parole may be overturned. A review of the order of rejection revealed that parole had been rejected on the grounds that he had already received punishment for a jail offence and was therefore ineligible to apply under Paragraph 11.2 of the 2010 Parole/Furlough Guidelines. The petitioner's nominal roll was requested. According to the aforementioned roll, he had already served a sentence of five years, nine months, and four days against a potential sentence of rigorous imprisonment for life and had been granted remission for one month and four days. It was noted that his prison behaviour over the previous year had been acceptable. The petitioner's attorney added that he had utilised interim bail was granted twice in the years 2009 and 2010. The petitioner had properly turned himself in to the jail authorities on both occasions and had not abused the indulgence that had been given to him. In light of this interpretation, the present petition was granted. Four weeks of conditional parole were granted to the petitioner. (Chandra Prakash V. The State of NCT of Delhi, 2010)

4.2 Unrestricted use of parole

In *Suresh Chandra v. State Gujrat* (1976), where the petitioner was a tax inspector caught up in the taking of bribe, the court also highlighted the advantages of parole. The Apex court had made comments about parole as a type of criminological innovation to reduce recidivism. It also advised liberal use of parole to lessen prison overcrowding. (*Suresh Chandra v. State Gujrat*, 1976),

In the case of *Inder Singh v. State Delhi Administration*, the supreme court devised a novel strategy, mandating that the prisoner be granted a guarded parole release every year for at least one month to maintain his family ties. By being cribbed, cabined, and confined within the four walls of the prison, a prisoner could not maintain family ties. In this instance, the judge instructed:

So that their family lies may be maintained and internal tensions may not further build up, parole will be granted or allowed to these two prisoners if their behaviour demonstrates responsibility and dependability, liberal though cautious. They should be extended on parole for two months after every year (*Inder Singh v. State Delhi Administration*, 1978)

The prison philosophy gains a new facet as a result of this case. As a result, parole has been incorporated into the criminal justice system. For the purpose of granting parole, the type, length, and gravity of the prisoner's crime may be disregarded.

According to *Ramamurthy v. State of Karnataka* (1997) 2 SCC 642, Supreme Court held that the release of prisoners on parole may help to ease prison overcrowding. When a person has completed a portion of their sentence, they may be granted parole, which is a conditional release from prison. The court recommended using parole liberally in this case. The court also cited the All India Committee on Jail Reforms Report (1980–1983), which stated that premature release is the effect of parole in the committee's opinion. (*Ramamurthy v. State of Karnataka*, 1997)

4.3 Young age

In *Mohammed Giasuddin v. State of A.P.*, the appellant and another accused conspired to defraud several unemployed young men out of a total of Rs. 1200/- by giving them false promises that they would secure jobs for them through their political allies and convincing them to believe their lies. Both of the accused were found guilty after Section

420 of the IPC (Now 318 of BNS, 2023) cheating offence was established. The other accused was his friend who pretended to be a State Port Officer. The appellant, a young educated man of 28, held two university degrees and worked as a junior assistant in the Andhra Pradesh Secretariat. The Appellate Court upheld the sentence of three years of solitary confinement and placed the emphasis on the seriousness of the crime rather than the offender or the relevant range of his surrounding social circumstances. It was determined that the appellant's loss of his government position was due to his conviction. His younger brother, sisters, and elderly parents were his dependents. After taking into account all of the appellant's circumstances, the Supreme Court ordered that the sentence be reduced to 18 months, that the appellant receive instructions regarding parole release every three months for at least a week punctuating the overall prison term, and that the appellant pay a fine of Rs. 1200/- to be given to the victim of deception in accordance with Section 357 of the Criminal Procedure Code of 1973 (Now 395 of BNSS). (Mohammed Giasuddin v. State of A.P, 1977)

In (Hira Lai Mallick v. State of Bihar, where the appellant was found guilty of the offence under Section 326 of the Penal Code (Now 118 of BNS, 2023), the Supreme Court emphasised the necessity of releasing prisoners on parole on a regular basis. He received an eight-year prison term. The appellant was twelve years old when the offence was committed. The High Court reduced the sentence to four years due to the young man's age. The Supreme Court ordered the appellant's release on parole for time periods that were reasonable so that he could maintain his family ties and avoid turning bestial and becoming dehumanised. In the following words, the Supreme Court emphasised the necessity of parole:

Establishing essential connections between the prisoner and his family is one way to ease tension. A prisoner who is insulted by the outside world turns bestial and, if his family ties are severed for an extended period of time, turns de-human. Therefore, we believe that granting parole to this appellant is in the best interests of corrections, and we anticipate that the authorities will consider pardoning periodically incarcerated people, especially those of the present type, for short periods of time, provided that there are adequate safeguards in place to ensure their proper conduct outside and prompt return inside (Hira Lai Mallick v. State of Bihar, 1997).

4.4 Family events

In *Manjutabai v. State of Maharashtra*, 2002, Rule 19 of the Prison (Bombay furlough and Parole) Rules, 1959, which apply to Maharashtra & Gujrat, was contested on the grounds that under Rule 19, a prisoner is not entitled to be released on parole based on the marriage of a close relative. In their petitions, the petitioners asked for parole for a four-week period so they could attend the wedding of Miss Savitri, who was the daughter of petitioner No. 1 Manulabai, sister of petitioner No. 2 Devanad, and daughter of petitioner No. 3 Kisna. These three petitioners were all incarcerated. They were found guilty of the crime listed in Section 302 read in conjunction with Section 34 of the Indian Penal Code. Both the court and the supreme court upheld their conviction. The Competent Authority rejected the petitioners' applications on the grounds that they were ineligible for parole because, according to Rule 19, prisoners were not permitted to be released on parole because a close relative had married. The Bombay Government created rules known as the Bombay Furlough & Parole Rules, 1959, which are applicable to Gujarat and Maharashtra, in accordance with Section 59 of the Prisons Act of 1894, which is applicable to the State of Bombay. The rules governing parole are outlined in Rule 19, which only gives the Competent Authority discretion to release a prisoner on parole in extreme cases of serious illness, the passing of close relatives, or in the event of a natural disaster. (*Manjutabai v. State of Maharashtra*, 2002)

In *Bhikabhai V. State*, the Gujrat High Court interpreted Rule 19 to mean that the prisoner's good behaviour was required in order for parole to be granted. The two Supreme Court rulings were cited by the knowledgeable attorney speaking on behalf of the petitioner. The State did not object in *Zafar V. State of U.P.* when the prisoner was released in exchange for his daughter's marriage. The court had granted parole with the restriction not to leave the town after taking into account the absence of any objections. Similar to this, in *Mochi Raju V. State of Gujrat*, the Supreme Court made the ruling because the petitioner was Suresh's older brother and was getting married on January 21, 2001. After providing a bond in the amount of Rs. 10,000 and two sureties, the court deemed it appropriate to release him on parole for a week from the date of release. He must show up in front of the relevant authority after that time period has passed.

Due to Rule 19 of the aforementioned Rules, the competent authority had refused to grant the petitioners parole. The judge noted:

We have read through the various Acts and Rules, periodic notifications from the government, as well as the rulings of the Apex Court, the Gujrat High Court, and this court. According to our interpretation of the case's peculiar facts, the petitioner is qualified for a parole release for a period of two weeks for the brother and father and four weeks for the mother. The purpose of Rule 19 is to give the prisoner an opportunity to meet his relatives and to participate not only in moments of sorrow, illness, or death, but also in moments of joy, such as the occasion of his daughter's or sister's marriage. In our opinion, the competent authority has interpreted the provisions of Rule 19 in a very limited manner. In the current situation, the daughter is getting married while her parents—the father, mother, and son—are all incarcerated. We believe that the petitioners have a right to parole due to the peculiar circumstances of the current case (*Bhikabhai v. State*, 1987).

Manu Sharma (Siddarth Vashisht) was a convicted murderer serving a life sentence for the 1999 murder of model Jessica Lai in (*Manu Sharma V. State of Delhi*, 2010). He was Vinod Sharma's son, a former minister in the Indian National Congress. He was present at a party on April 29, 1999, where an illegal bar was serving drinks. Sharma offered Jessica Lai 1000 rupees to serve him, but she refused, so Sharma shot and killed her with a 22 pistol. Sharma was detained and accused of murder, evidence destruction, and other offences. 32 witnesses grew 'hostile' throughout the trial. Sharma and eight other defendants from the original 12 were found not guilty on February 21, 2006, seven years after the case was first filed. After the verdict, the trial judge said that the Delhi police had failed to support the grounds on which they had built their case, which was why the court had found them not guilty. The weapon that was used to shoot at Jassicalal was not found by the police. Widespread public outrage was sparked by the acquittal. The case was readmitted to the Delhi High Court in March 2006, where a speedy trial was conducted. Two spent cartridges found in Sharma's car were among the evidence that was reintroduced; a ballistic analysis on one of them revealed that it matched the bullet found in Jassicalal's skull. The High Court found Manu Sharma guilty of killing Jessicalal on December 18, 2006, and gave him a life sentence. He was detained in Tihar Jail after being found guilty. He used his attorney to appeal to the Supreme Court. On April 19, 2010, the court upheld his life imprisonment sentence. Along with the other co-accused Vikas Yadav, Amardeep Singh Gill, and Santosh Kumar Singh, he was held in the Tihar Jail. On September 24, 2009, Delhi's lieutenant governor granted him a 30-day release

from custody on the grounds that he had to care for his ailing mother, attend his grandmother's funeral, and also take care of the family business, which was suffering without him. However, the justification for parole was disproven because his grandmother passed away in 2008.

He was observed having fun in a Delhi disco during the second extension of his parole for an additional 30 days. His mother, whose condition served as another justification for parole, was spotted at a press conference announcing a women's cricket tournament at the Chandigarh hotel owned by his family. Additionally, it was later discovered that parole was approved despite the Delhi Police's protests. After news broke that Manu Sharma had visited a Delhi nightclub, the Chief Minister Sheila Dixit faced criticism for granting him parole. He broke the terms of his parole, the Delhi Government had to revoke it, and on November 10, 2009, he was sent back to Tihar Prison once the parole violation was established. He was given five days of parole in November 2011 so that he could attend his younger brother's wedding. His freedom under the parole was limited to the cities of Karnal, Chandigarh, and Ambala, and he was not allowed to enter any nightclubs

In *Darshan v. State of Haryana*, The petition was submitted by the petitioner in order to be released on parole so that he could attend the wedding of his real nephew, which is scheduled to take place on May 11, 2013, in accordance with Article 226 of the Indian Constitution and Section 3(1)(b) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988. The knowledgeable attorney for the petitioner argued that he repeatedly approached the respondent for this purpose, but that his application was turned down. Disposed of with a directive to the respondent to swiftly decide on the petitioner's request for his parole release in accordance with the law. (*Darshan v. State of Haryana*, 2013)

4.5 Agricultural objectives

The current writ petition, *Satish Chandra Tyagi V. State of Himachal Pradesh*, was filed in order to grant the petitioner parole. The petitioner, who is from the Uttar Pradesh village of Pursi, was serving a life sentence for a crime he committed in Shimla under Section 302 of the Indian Penal Code. (Now 103 of BNS, 2023) He was kept in the Mandi sub-jail. The petitioner had previously received two parole releases. On the first occasion, the temporary release period was for one month; on the second occasion, it was for one

month and ten days. On both occasions, the treatment of his ailing mother and the conduct of agricultural operations served as the justifications for his parole release. It was unclear if the Gaziabad District administration had objected to the parole grant on the first occasion. On the second occasion, they opposed the petitioner's release on parole on the grounds that he had a criminal mind and might engage in criminal activity if given permission to leave prison. The petitioner was released on parole a second time despite receiving a negative report to that effect from the Ghaziabad district authorities, taking into account the fact that no negative feedback regarding his behaviour during the first period of temporary release had been received. Since no such unfavourable report was received from district authorities, the petitioner was not even discovered to have engaged in any activity detrimental to public order during the second period of his parole release. There was no mention of any such activity on the part of the petitioner in the report that the authorities submitted on this occasion. After conducting an on-site investigation the same day, the Executive magistrate submitted a report referencing agitation by all prisoners but omitting to name the petitioner as the sole agitator or ringleader. There was no mention in the report of the petitioner acting in an intoxicated manner or causing a disturbance, as the superintendent of the jail claimed in the course of his own report. Under the given circumstances, the petitioner's parole application could not have been denied based on the district authorities' report. As a result, the writ petition was approved and the grounds on which he requested parole were determined to be valid. In accordance with the terms and conditions under which he was previously released on parole, the petitioner should be granted parole for the forty-two-day period for which he had prayed.

The flimsy justification for denying parole—that the release of the prisoners would jeopardise public order—was contested. The petitioner in these cases was serving a life sentence in prison and was incarcerated in either the State of Punjab or the State of Haryana (*Satish Chandra Tyagi V. State of Himachal Pradesh*, 1986) as was the case in *Varun & Gullu v. State of Haryana* in which the petitioner had applied for parole in order to visit their families or transport agricultural equipment. Such a request had been turned down because there was concern about a breach of the peace or because there was a possibility that the complainant family would cause unwarranted incidents.

Expert legal counsel for the petitioners had argued that under the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 and the Rules framed thereunder or the Punjab Good Conduct Prisoners (Temporary Release) Act, 1952 or Rules framed thereunder, the

request for Parole or furlough could only be denied if such release was likely to endanger the security of the State or maintenance of public order. Therefore, the competent authority's justifications were not supported by the law. It was argued that the punishment meted out to the prisoner served the dual purposes of serving as a deterrent to the public as well as reforming the prisoner so that he could reintegrate into civil society once his sentence was up. Refusing parole meant turning down the chance to rejoin civil society. A prisoner's mental health may suffer from long periods of isolation from society, which is why parole should be granted to prevent such physical or mental conditions. Only in exceptional circumstances should the parole be rejected (Varun & Gullu v. State of Haryana, 2010).

The Judge noted that a simple disruption of law and order that causes chaos is not the same as a disruption that undermines public order. Not a problem affecting public order, but a law and order issue would be a suspected breach of the peace or the potential for the prisoner to commit a crime while on parole. Accordingly, it would seem that "Law and Order" encompasses disorders of lesser gravity than those affecting "Security of the State" and that "Public Order" encompasses disorders of lesser gravity than those affecting "Security of the State." In situations where there are issues with law and order, the best course of action is to recommend that the release be ordered with the necessary conditions rather than advising that the request for release be denied (Varun & Gullu v. State of Haryana, 2010).

The request for a temporary release on parole should be taken into account by the relevant authorities. Law did not require that requests for parole release be denied for offences like disturbing the peace. The petitions are dismissed with the aforementioned instructions. Therefore, the request for release should not be denied on the grounds that the prisoners' release would jeopardise the public order, but rather, the competent Authority should strike a balance between the security of the community and the individual's right to liberty when releasing the prisoners on parole.

The petitioner filed this petition for the granting of parole for agricultural purposes in Mohar Singh & Others v. State of Punjab. It was claimed that after receiving their application, the police claimed that they were not eligible for parole because of a suspicion of causing a disturbance. However, the last order had not yet been made. The writ petition was dismissed by giving the I.G. prisons, Punjab to decide on the petitioners'

applications for the lawful grant of parole within three weeks of the date they receive a copy of this order. (Mohar Singh & Others v. State of Punjab, 2012)

4.6 Old age or illness of the prisoner

In the case of *Shakuntia Devi v. State*, the petitioner was found guilty and given a life sentence; however, old age or illness may be taken into account for release on parole. She filed a petition for parole release while being detained in Tihar Jail, claiming that she was a 74-year-old elderly woman and a diabetic patient. Because the food served to her was not diabetic-friendly, her health deteriorated. She was eager to get to know her family. She received her most recent parole before 14 months had passed. She requested parole from the Delhi Administration, but so far there has been no response. Through counsel, the Delhi Administration argued that the petitioner's application had been reviewed and rejected. The Deputy Secretary (Home) stated in an affidavit that the West District's Deputy Commissioner South and the jail's superintendent had both supported the parole request. From the standpoint of law and order, Delhi had no issues with the petitioner being granted parole. He continued by saying that the patient's condition wasn't good. The Delhi Administration's decision to deny her parole, according to the court, was influenced by the nature of the sentence, the seriousness of the crime, and the length of the prior period of parole. The court ruled that neither the type of sentence the prisoner received nor the seriousness of the crime he or she committed were relevant factors in determining whether to grant parole. The affidavit demonstrated the petitioner's responsible and reliable behaviour. Additionally, the court noted that she had diabetes, hypertension, and coronary disease while rejecting the order and denying parole. (*Shakuntia Devi v. State*, 1996),

When handling the petitioners' request for the grant of parole, the Delhi Administration failed to take these factors into consideration. The State's reasons for rejecting the petitioner's request for parole were not only unjustified and irrelevant, but also lacking in any regard for the welfare of other people and outside the bounds of what was allowable (*Shakuntia Devi v. State*, 1996). The petitioner should be released on parole for one month, according to the Supreme Court, following the execution of a personal bond in the amount of Rs. 5000 with one surety in the same amount, as determined by the Chief Metropolitan Magistrate of Delhi. In addition, the court ordered the State

Government to pay the petitioner Rs. 4000 as costs for the respondents' unreasonable and obstinate behaviour in the case (*Shakuntia Devi v. State*, 1996).

4.7 Emergency and Custodial Parole

In the case of *Vikas Yadav v. State of U.P.*, the court approved custodial parole after the appellant/Vikas Yadav requested a one-month suspension of his sentence and release on interim bail so that he could attend his sister Ms. Bharti Singh's nuptials. The defendant had already been found guilty of kidnapping, murdering, and setting Nitish Katara's body on fire to destroy evidence. He had been given a life sentence in prison. The appellant argued that he had served a continuous sentence of more than seven years and seven months and that his behaviour during that time had been acceptable. His request for a regular sentence suspension and his release on bail had been denied. The applicant argued that since his real sister Bharti Singh had to wed Mr. Yatin Singh, he had a responsibility to arrange all family events and, as the bride's real brother, not only actively participate in them. The application also included the invitation card for the wedding reception. (*Vikas Yadav v. State of U.P.*, 2016)

Additionally, he claimed that his grandfather Shri Tejpal Yadav was very old and ill, and that he wished to spend as much time as possible with him. The appellant also wished to make use of the time left on his interim bail to mend relations with his family and his sister. The applicant had relied on the judgement of a Division Bench of this court in (*Shakuntia Devi v. State*, 1996) and (*Inder Singh v. State*, 1978), and it had been argued that a prisoner could not be confined to his own cribbed cabined and confined world within the four walls of prison in order to begin and sustain the reformatory process. This was because a prisoner needed to be released at least once a year for a month in order to maintain his family ties. The application was also contested on the grounds that the sentence suspension for attending the wedding and other events did not carry enough weight in light of the applicant's prior behaviour, in which he had abused the freedoms granted to him earlier during the time when he was out on bail in the murder case of Jassica Lai. While out on bail in the aforementioned case, he committed the current offence. Additionally, it was opposed on the grounds that the applicant did not need to be present for the ceremonies related to his sister's marriage because he had his father, another brother, and other family members perform the formalities. Without a doubt, the court had to take into account the convict's desire to rebuild his relationships with his

family and friends. The court had to balance each person's right to privacy and freedom against the needs of society, acting with the utmost care and caution.

Vikas Yadav, the applicant, was nevertheless permitted to go to his sister's wedding. The custodial officials in charge of looking after the applicant were told to dress casually so they could attend his sister's wedding. To ensure that the applicant did not flee or receive assistance from anyone in evading custody, such custodial officials should be free to take the necessary precautions and use the equipment and devices at the marriage venue and other locations. (Vikas Yadav v. State of U.P., 2016),

In *Rahul Sharda v. State of Punjab & Others*, 2012, a petition was filed under Article 226 of the Indian Constitution and Section 482 of the Code of Criminal Procedure, 1973 (Now 528 of BNSS, 2023), requesting that the respondents grant the petitioner two weeks of emergency parole in exchange for his appearance in the M.Sc. fourth semester examination. According to Section 3(1) (d) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962, I.T.(LE) was in effect from September 4, 2012, to September 14, 2012. The petitioner's knowledgeable attorney claimed that earlier on, the petitioner had applied for interim bail to appear in the postgraduate diploma in computer application final examination, which application had been approved and interim bail had been granted. The petitioner was then given permission to show up for the exam. The present petition was approved, and the petitioner was given emergency parole for a period of two weeks in light of the arguments raised by the learned attorney for the petitioner. He was instructed to be freed from custody upon posting bonds that satisfied the Central Jail Superintendent in Kapurthala. On September 15, 2012, he had to turn himself in to the jail authorities. (*Rahul Sharda v. State of Punjab & Others*, 2012)

4.8 Overstay

In *Bhikabhai Devshi v. State of Gujarat*, the issue of the interpretation of Rule 4 (10) of the Prisons (Bombay Furlough and Parole) Rules, 1959 was brought before the Full Bench. In the context of Rule 4(10), which allowed the prison authorities to consider a prisoner's request for a furlough who had later turned himself in after being released on furlough or parole, the issue of whether the word "shall" was mandatory arose. In this instance, the petitioner was found guilty of murder and given a life sentence by the Session Court of Junagadh. He had occasionally been granted parole on various occasions. He was given parole, but it seems that his father passed away during that time.

His request for a parole extension was denied. The petitioner turned himself in 25 days late. He was punished as a result. The punishment was either a 25-day reduction in remission or a 25-day extension of parole refusal." (Bhikabhai Devshi v. State of Gujarat, 1987).

The petitioner claimed that he was not totally ineligible for being released on furlough despite the fact that he had turned himself in 25 days after the due date even though he was required to do so. The authority was able to take into consideration the request for time off without pay. Because the authorities had mechanically considered the provisions of Rule 4(10) for releasing him on furlough holding that 'shall' meant 'May,' the court observed the following:

The request of the prisoner for furlough was denied by the jail authorities only on the technical misunderstood legal bar of Rule 4(10), the refusal of furlough required to be quashed. The prison authorities cannot reject as ineligible the request of due furlough of the prisoners who have surrendered late in the past.

The court ordered the respondents to give the petitioner the legally required furlough consideration within one month of that date. ((Bhikabhai Devshi v. State of Gujarat, 1987)

In Navneet V. State of Maharashtra, the appellant was granted a fifteen-day parole release. But he took too long to give up. He accompanied his request for parole extension with a doctor's certificate attesting to his mother's illness. For some time there was no reply. By 53 days, he was late with his own self-surrender. Due to his tardy surrender, the prison superintendent conducted an investigation and sentenced him to a three-day suspension with one day deducted for each day of absence. As a result, the appellant's remission was reduced by 159 days by the prisons' superintendent. The Session Judge and Inspector General of Prisons both approved of this penalty. The High Court of Bombay also dismissed the writ petition contesting the sentence, allowing the Supreme Court to hear the appeal through Justices G.T. Nanavati and S.N. Phukan stated: In light of the facts and circumstances of this case, we believe that the ends of justice would be served if the Superintendent of Prison's order of punishment were modified and the period of remission was shortened from 159 days to 53 days (Navneet V. State of Maharashtra, 2000.).

Another ruling demonstrating the judiciary's careful examination of governmental directives regarding parole for a prisoner is *Baldev Singh v. State of Punjab*, the prisoner had been granted parole, but he spent five extra days outside the facility. The prison administration, which was given legal authority to do so, withheld 10 days of the inmate's earned remission as punishment. The District Judge also gave his one-sentence approval for the order. Because the judicial mind was not used, the High Court quashed the order and ruled that the District Judge should only have given his approval after giving justification. (*Baldev Singh v. State of Punjab*, 1993)

4.9 Extension of parole

Because the prisoner is the only male in the family, parole may be granted or extended. As the petitioner had already been on parole for four weeks, asked the court to order the respondents to grant the petitioner an extension of his or her parole. Because the petitioner's mother had a serious illness, earlier parole had been granted. After that, mother passed away. The petitioner's attorney claimed that only her married sisters were in the family because their father had already passed away. The petitioner was the only child of the late couple. He therefore submitted this petition for a parole extension. Given the arguments put forth by the petitioner's knowledgeable attorney and in light of the fact that he was the only male in the family, the parole period was extended by an additional ten days. (*Menon v. State of Haryana*, 2012)

4.10 Pendency of Cases/Appeal

In *Sajith, N.S. v. The Additional Director General*, it wasn't important that a case was still pending because the petitioner was a convict serving a life sentence in Central Prison, Thiruvananthapuram. The petitioner submitted a one-month parole application. Although it was approved, he was not allowed to leave the facility. According to the petitioner, the additional director general of police, prisons, ordered the Central Prison Superintendent's parole order to be revoked due to a number of open cases against him. It was therefore improper to grant him parole. In this court, the petitioner contested the parole cancellation order. In this instance, it was decided that the petitioner could not be denied parole merely because his or her cases were pending. With instructions given to the respondents to allow the petitioner to go on parole in accordance with the order, the court dismissed this writ petition. Parole may be granted while the appeal is pending as well. (*Sajith, N.S. v. The Additional Director General*, 2010)

The petitioner in the case of *S. Sant Singh@ (Pili Singii v. Secretary of the Home Department, 2006)* was found guilty under Section 302 of the Indian Penal Code (Now 103 of BNS, 2023). The petitioner appealed against the aforementioned order and decision to this court. The petitioner chose to apply for parole while the appeal was pending on the justification that his wife needed to be operated. The said application was ultimately turned down. The petitioner filed a writ petition with this court in opposition to the order of rejection. The aforementioned writ petition was ultimately denied because the petitioner had the option of appealing the decision to deny parole. The petitioner then submitted an appeal to the State Government, but it was denied. The petitioner filed the current petition because he was upset with the state government's decision to deny his request for parole in the aforementioned order. The request for parole was ultimately denied for two reasons. The first defence was that his ailing wife was being cared for by other relatives, so the petitioner's presence was not necessary. The second defence was that while his court appeal was pending, the authorities lacked the authority to consider granting him parole leave. (*S. Sant Singh@ (Pili Singii V. Secretary of the Home Department, 2006)*)

According to the prison rules established by the Prisons Act of 1894, the competent authority has the authority to grant parole, Justice V.K. Thailramani noted. Even though the petitioner's appeal is still pending before the appellate court, the authorities also have the authority to consider and approve a parole application (*UOI v. Raghuveer Singh, 2005; ; Rattiram V. State of M.P., 2012*)).

4.11 Miscellaneous

The Supreme Court ruled in *Krishan Lai v. State of Delhi* that the financial need to commit the crime of forgery was not a relevant consideration when determining the appropriate sentence. The appellant in this case was tried in the court of the additional session judge in Delhi for a number of offences, including one in violation of Indian Penal Code Section 467 (now 338 of BNS, 2023) (Forgery of Valuable Security). He was found guilty of that crime and given a 9-month sentence of hard labour in prison. The Appellant filed an appeal with the High Court of Delhi challenging the conviction and sentence. The appellant was found guilty in accordance with Section 467, but the High Court reduced the prison term from 9 to 6 months. Court personnel noted the following (*Krishan Lai v. State of Delhi, 1976.*)

Parole is a supposedly successful example of a criminological innovation that has been used to promote rehabilitation and reduce recidivism. The applicant in this case is a small official who has never been arrested before. Although the crime he committed is despicable, it is up to the prison administration or other parties with the necessary authority to decide whether the appellant should be granted parole after serving a substantial portion of his sentence. This would depend on his behaviour demonstrating a change of heart while he was incarcerated. If he doesn't, he has no chance of receiving legal clemency and might have to serve his entire sentence. However, in the current situation, parole may be exhausted if the circumstances allow.

Respondents were accused of violating Section 302 read with Section 149 of the Indian Penal Code (now 103 read with 190 of BNS, 2023) in *Veeramchaneni Raghavendra Rao v. Government of Andhra Pradesh*. Some of them received life sentences for their crimes. The convicted individuals requested bail, which was denied. The state and appellants both appealed to the High Court. One received bail so he could visit his ailing father. But the state used flimsy justifications, like financial difficulties or the illness of a relative, to get everyone released on parole. The claim in the writ petition was that these convicted individuals belonged to political organisations like the Telugu Desam and the Communist Party of India, and that political pressure led to their release on parole while their appeal was pending in the appellate court.

After reviewing the rules established by the Andhra Pradesh prison authorities, the court ruled that Section 389 gave it the authority to release a person on bail while an appeal was pending, and that the State Government could not get around this by creating any parole rules. The Chief Minister's involvement, according to the court:

I must admit that the Chief Minister was not provided with the necessary support when he was asked to carry out this statutory duty in the current case, nor is he properly informed of the correct legal position (*Veeramchaneni Raghavendra Rao v. Government of Andhra Pradesh*, 1985).

The Chief Minister was criticised for a similar action in *Smt. In Kavuri Sudesthamma v. State of A.P.*, a life sentenced prisoner whose appeal was pending was granted parole on a tenuous basis, contravening Section 432(2), which called for prior court approval under parole rules established under Section 432(5). The court determined that the release was not within its purview. Although it was an administrative order, the court was unable to

interfere with it under Section 482, so it refused to provide the petitioner with any relief. The court did not pay attention to its previous ruling in (*Veeramchaneni Raghavendra Rao V. Government of Andhra Pradesh*, 1985). It was argued that the court ought to have gotten involved. The Chief Minister's action appeared to be an abuse of authority, and the court would have been justified in interfering with the judgement in accordance with Section 482 of the Code. (*Kavuri Sudesthamma v. State of A.P.*, 1985)

The prisoner's were lodged in jail beyond the period of 14 years, and some of the prisoners have been behind bars for the past 20 years, despite provisions for their periodic and eventual permanent release on parole and for the shortening of their sentences. In *Suraj Giri v. The State of Rajasthan*, the court was asked to consider the crucial issue as a result of writ petitions. The question at hand was whether a prisoner who had served the required amount of time and had not taken advantage of first, second, or third parole, or any of the above parole, could be considered for release on permanent parole under rule 9 of the Rules from 1958. The State argued that in accordance with Rule 9, only a prisoner whose case had been considered for release on permanent parole was one who had been released on first parole for 20 days, then on second parole for 30 days, and finally on third parole for 40 days alone. According to Rule 9 of 1958, "if during the third parole also the prisoner has behaved well, his character has been exceedingly good, and if the prisoners conduct has been such that he is not likely to relapse into crime, his case may be recommended to the Government through the State Committee for three permanent releases on parole." (*Suraj Giri v State of Rajasthan*, 2011)

The petitioners' solicitors argued that the parole was a benefit to the prisoner with the clear aim and object of giving him the chance to re-establish himself in society by giving him opportunities to live with his family or in society. Even if someone had been given a life sentence, he might still be allowed to live with his family or in society. No penal provision was made in the parole rules for punishing the prisoner for failing to take advantage of the periodic release on parole as specified in rule 9 of the Rules of 1958. It was further argued that if a prisoner failed to use the benefit of parole release on a regular basis in accordance with the Rule, the jail staff and the government could be held responsible for failing to provide prisoners with the protection of the law. Additionally, it was the responsibility of the government's social welfare department and jail administration to inform prisoners of their rights and privileges. The prisoners might be inspired to behave better. All writ petitions were granted, and it was ordered that

petitioners who had completed the required amount of time in prison were eligible for consideration for release on permanent parole under the Rules of 1958. If their cases were taken into consideration by the respondents, they could be released on permanent parole regardless of whether they had taken advantage of the first, second, or third. The respondents were instructed to ensure that inmates in custody are informed of the Rules of 1958 and their right to release on first, second, and third parole. They were also told to emphasise that a parole request might not be denied on tenuous grounds. (Suraj Giri v State of Rajasthan, 2011)

In Babubhai Ukbhi v. The State of Gujarat, the petition for a 15-day parole was submitted by the prisoner. The District Magistrate had denied the request for parole on the grounds that it was ineligible because the prisoner had only recently been booked into jail. The court determined that it was hardly a justification for denying parole. According to Chief Justice P.R. Gokulakrishanan, such a refusal of parole cannot be upheld because it is based on unrelated grounds. For the purpose of releasing prisoners on parole, the District Magistrate should abide by the instructions provided in government notifications and decide the case on the basis of merit. As a result, the court instructed the District Magistrate to take into account the prisoner's request for parole in accordance with the principles established by the Gujarati government for the release of prisoners on parole. (Babubhai Ukbhi v. The State of Gujarat, 1987)

In Smt Rayapudi Lakshmi v. The Superintendent, Central Prison, Rajahmundry, the petitioner's husband was found guilty of the offence punishable under the Indian Penal Code (Now BNS, 2023) and given a life sentence. The issue of whether the period of parole would be treated as part of the sentence came up in this case. He had served a total of 760 days of parole on four separate occasions. In her application, one Smt. Rayapudi Lakshmi, who filed a public interest litigation, questioned whether the 760 days of parole that her husband Sri Rayapudi Venugopal, who was serving a life sentence, had received would be considered a component of his sentence. A statutory rule stated that the period of parole should not be considered a component of the sentence. As a result, the court determined that the 760 days that the petitioner's husband had to serve could not be included in the sentence. The petition for a writ was denied. (Smt Rayapudi Lakshmi v. The Superintendent, Central Prison, Rajahmundry, 2001)

4.12 Rejection of parole

The court's refusal of parole is another example of its humane side. In *Gurdeep Bagga v. Delhi Administration*, the life-sentenced petitioner requested parole due to his mother's illness even though he was serving a life sentence. He has been on parole continuously since 1984 for a related reason. He had submitted various doctors' medical certificates each time. There was only one document that detailed the mother's medical history. Two older sisters who could care for the mother belonged to the petitioner. The life sentence recipient was denied parole. The High Court recommended giving the life-sentenced inmate an annual vacation in this case. (*Gurdeep Bagga v. Delhi Administration*, 1987)

In *Suresh Chandra v. State of Gujarat*, where the petitioner was a Tax Inspector caught up in the Act of talking a bribe, the issue of parole in regard to white collar crime was front and centre. According to Justice Krishna Iyer, parole is required for successful rehabilitation and recidivism prevention. The petitioner was the first person to commit a white collar crime and was not deserving of pity. After serving a fair portion of his sentence, the prison authorities were to consider his application for parole. Justice Krishna Iyer, who declined to take a leave of absence, observed:

Additionally, the petitioner is free to request an earlier release before the full term has ended under Criminal Procedure Code Section 432. All of this depends on his behaviour demonstrating a change of heart while he was incarcerated. If he doesn't, he will not be eligible for legal clemency in this case and may be forced to serve the entirety of his sentence (*Suresh Chandra v. State of Gujarat*, 1976.).

In the case of *Ala Ramji v. State of Gujarat*, the petitioner prisoner Ala Ram ji had asked for a 21-day parole extension due to his wife's illness. There was no male family member to oversee her care, surgery, etc. He had annexed a doctor-signed medical certificate to support this. Additionally, he had previously submitted a request for parole for release on the grounds that his wife was experiencing chest pain and needed to be hospitalised, and that there were no elderly male family members to care for her. He was granted ten days of parole by the court. He prayed for an extension of twenty-one days because his parole of ten days had already expired. The application and the two different types of sickness certificates that the convict's wife was allegedly suffering from were submitted within a three-week window, which was an interesting fact. When denying the request for a time extension, Justice Vaidya noted:

Verification and cross-checking of the medical certificate are done so that any possibility of it being false, forged, or fabricate is eliminated. In-depth investigation is also done because failing to do so could result in serious consequences, especially when the medical certificate is used to support a request for parole leave or bail. Any lapse in duty or vigilance has the potential to jeopardise life, the rule of law, and social order. As a result, it is important to maintain law and order while also making sure that no one convicted of a serious crime escape from custody by exploiting the sympathy of the authorities by feigning illness, surgery, or other circumstances that aren't true. Insisting on a fool proof medical certificate on the basis of false marketable medical certificates (*Ala Ramji v. State of Gujarat*, 1992).

In *Avtar Singh v. State of Haryana* AIR 2002 SC1109, the constitutionality, arbitrariness, and illegality of Section 3(3) of the Haryana Good Conduct Prisoners (temporary Release) Act, 1988 were contested. Avtar Sing, a criminal, was serving a prison sentence in this instance. He submitted an application to the Punjab and Haryana High Court asking for a directive to the State Government to include the time he spent on parole in the total amount of time he had been imprisoned. By ruling that the parole period could not be applied to the actual sentence, the application was discussed. Justice Phuken dismissed the writ petition and upheld the constitutionality of the contested provision, noting:

A prisoner who is released on parole under Section 3 of the Haryana Good Conduct Prisoner's (Temporary Release) Act, 1988 is not entitled for counting the period of release towards the total period of the sentence of imprisonment that he has been required to serve. On the other hand, a prisoner who is released on furlough will have the period of such temporary release counted toward the total period of his sentence of imprisonment that he has been required to serve. A prisoner's eligibility for parole during the time that they are serving their actual sentence has been terminated as a result of a law that is constitutionally sound and currently in effect. It is not possible to say that a certain right of a prisoner has been taken away without going through the proper legal channels. Therefore, Article 21 of the Constitution does not apply to Section 3(3) of the Constitution (*Avtar Singh v. State of Haryana*, 2002).

In *Rabindra Kumar Pal @ Dara Singh V. Republic of India*, the Supreme Court denied custodial parole to Dara Singh (Ravindra pal Singh), who was serving a life sentence for

the murder of Australian Missionary Graham Staines and his two minor sons, so that he could carry out rituals involving the immersion of his father's ashes. A Bench made up of justices P. Both Salhasivam and H.L. In order to allow Ravindra Pal Singh, also known as Dara Singh, to travel from Orissa to Allahabad with his father's ashes after his 2003 passing, Dattu claimed that it was not possible to grant him custodial parole. The argument made by Dara's attorney that the convict was not even given permission to carry out his father's final rites was not taken into account by the court. He stated that Dara's 77-year-old mother wanted his father's ashes to be buried in the revered Ganga. The petition was discussed in court. All 14 defendants were found guilty by the trial court in September 2003, and while Dara Singh and Hembrom received death sentences, the others received life sentences. Their death sentences had been changed by the Orissa High Court to life in prison. ((Rabindra Kumar Pal @ Dara Singh v. Republic of India, 2007)

Jai Chand Singh was found guilty and given a life sentence in prison under Sections 302, 34, 154, 138, and 149 of the Indian Penal Code in the case Jai Chand Singh v. Jail Superintendent, 2005, Central, the petitioner. The order was contested, but it was rejected. According to the petitioner, who had already completed 25 years of his sentence before January 26, 1999, he should have been released from prison along with the other prisoners as per government directives. He had argued that the three-month period during which he was released on parole prior to his conviction had been legally excluded. The benefit of the government orders granted to the petitioner was allegedly illegally denied to the respondent. The court ruled that the set off allowed by Section 428 of the Criminal Procedure Code could only be used to offset time spent in actual detention for the person in question. The petitioner claimed that he was entitled to a setoff for the time that he was out on parole prior to his conviction, but the court determined that this claim could not be accepted legally. He was therefore ineligible for the requested relief. (Jai Chand Singh v. Jail Superintendent, 2005)

In State of Haryana v. Devi Singh, 2013, the petitioner was asking for a short-term parole release so he could marry his daughter. On 7.8.2012, the petitioner was found guilty of violating Section 302 read with Section 34 of the Indian Penal Code. In accordance with Haryana Good Conduct Prisoners

The above relief was not available under the (Temporary Release) Rules of 2007 until the convict had served a full year in prison following conviction and the petition had been denied. (*State of Haryana v. Devi Singh*, 2013)

4.13 Parole and special legislation

In the context of special laws, the issue of parole has come up.

4.13.1 The Conserve Foreign Exchange and Prevent Smuggling Activities OF 1974

The Conservation of Foreign Exchange and Prevention of Smuggling Activities Act of 1974 gave rise to the parole issue. A detainee in *Poonam Lata V. Wadhawan*, AIR 1987 SC 1383 was involved in receiving contraband from across the Indo-Nepal border and was making payments in foreign currency and remitting the money in the foreign country in US dollars. The detainee's attorney argued that because preventive detention is not a punishment-based sentence, punitive law's sentencing considerations cannot be applied in these circumstances. The COFEPOSA (Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974) detainee in this case was released on parole by the Supreme Court. The period of parole had to be taken out of the calculation of the detention period. In *Sunil Fulchand Shah v. Union of India*, the Supreme Court overruled *Poonam Lata* (*Sunil Fulchand Shah V. Union of India*, 2000).

The Supreme Court ruled in *Fulchand Shah's* case that parole could be granted through a temporary release as provided by Sections 12(1) or 12(1)A of the COFEPOSA, or Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974. In this instance, the detainee approached the government to request parole release. Due to the prohibition on judicial intervention set forth in Section 12(6) of the COFEPOSA Act, the decision to grant temporary parole to such a detainee was an administrative one that had to be made by the government or other officials. The High Court's jurisdiction under Article 226 and the Supreme Court's jurisdiction under Articles 32, 130, and 142 of the Indian Constitution were unaffected by this bar, though. The Supreme Court further decided that the COFEPOSA's Section 10 detention period had to be calculated starting from the date of the actual detention rather than the date of the order of detention. In other words, it meant that a detention period was not interrupted or terminated by an order issued under Section 12 of the temporary release of detainees on parole. Only by restricting the detainees' freedom of movement in accordance with the terms outlined in the parole order did it alter the mode of detention. Therefore, unless the rules specified

otherwise, the period of parole had to be included in the overall period of detention. (Sunil Fulchand Shah V. Union of India, 2000)

4.13.2 Act of 1985 on Narcotic Drugs and Psychotropic Substances

In *Ishwar Singh M. Rajput v. State of Gujarat*, the court considered the issue of parole in relation to the Narcotic Drugs and Psychotropic Substances Act, 1985 (*M. Rajput v. State of Gujarat*, 1991). In the writ petitions, the issue that needed to be resolved was whether a person found guilty under the Act's provisions could be released on parole or furlough by the relevant authority in light of Section 32A of the Act. Justice M.B. Shah dismissed the petition and noted:

Given the current wording of Section 32A of the Narcotic Drugs and Psychotropic Substances Act, 1985, prisoners found guilty under said Act are not eligible for parole or furlough (*M. Rajput v. State of Gujarat*, 1991).

In *Dadu v. State of Maharashtra*, 2000, the constitutionality of Section 32A of the Narcotic Drugs and Psychotropic Substances Act, 1985, was contested on the grounds that it was arbitrary, discriminatory, and in violation of Articles 14 and 21 of the Indian Constitution. It made an arbitrary distinction between those who were imprisoned for crimes covered by the Act and those who were imprisoned for crimes covered by various other laws. The petitioner in this case was found guilty under Section 21 of the Act and given a 10-year prison sentence. He claimed to have served more than seven years of his sentence already. He presumably believed that Section 32A of the Act prohibited the State from granting parole, so he was unable to make a claim for it. Even though the petitioner had made reference to Chapter XXXVIII of the Maharashtra Jail Manual, which authorises the grant of parole and offers a variety of remissions, nothing in the record indicated that he had actually applied for parole or not. arguing that parole is not the same as a sentence suspension. Parole does not equal the suspension, remission, or commutation of sentences that could be withheld under the provisions of Section 32A of the NDPS Act, according to Justice R.P. Sethi:

The granting of parole does not have the same legal weight as the suspension, remission, or commutation of sentences that are authorized by the "grab" provision of Section 32A of the NDPS Act. In spite of the provisions of Section 32A, a convict is still eligible for parole after serving their sentence. Despite this, an appellate court is the only body that has the authority to suspend a sentence that was handed down in accordance with the

Act, and they must do so in accordance with the conditions outlined in Section 37 of the Act (*Dadu v. State of Maharashtra*, 2000).

4.13.3 Army Act of 1950

In (*Ex-Capt. P.S. Gill v. Chandigarh Administration*, where the criminal appeal was decided by the High Court of Punjab and Haryana, the issue at hand concerned the release of an army prisoner on parole. An army soldier was found guilty in this case and is currently serving a sentence in a civil jail. As a result of this sentence, he was fired or no longer fell under the Army Act of 1950. It was decided that the army's assumption that the prisoner had been turned over to civil (police or jail) authorities would be incorrect. No one in the military had the right to parole him. The High Court decided that even though the prisoner was no longer governed by the Army Act, the Army authorities could still keep, remove, imprison, and punish him as if he were still covered by Sections 179 and 120B of the Army Act. As a result, the Court instructed the Army to release the petitioner on parole for a period of four weeks upon receiving approval from the District Magistrate of Chandigarh. Because the prisoner in this case had been found guilty by the court martial, the jail administration had decided not to grant him parole. The release of the prisoner was not within the purview of civil authorities. (*Ex-Capt. P.S. Gill v. Chandigarh Administration*, 1985)

4.13.4 Maintenance of Internal Security Act, 1971

In *Babulal Das v. State of West Bengal*, 1973, Mr. Justice Krishna Iyer of the Supreme Court adopted the observation made by the Calcutta High Court and stated that it was fair that the people kept imprisoned and resentful without trial should be given some chance to parole reform themselves by reasonable recourse to power under Section 15 of the Maintenance of Internal Security Act, 1971. However, he struck a discordant note in doing so.

Differentiating between parole and furloughs

Additionally, the judiciary has distinguished between furlough and parole. In (*State of Haryana v. Mohinder Singh*, 2000), the prisoner's time on parole is not added to the overall length of his sentence. He is qualified to have the time spent on furlough added to the total time served by him when calculating his sentence. In (*Avtar Singh V. State of Haryana*, 2002), the Supreme Court once more emphasised the difference between parole and furlough. In contrast to furlough, which counts the period of release towards

the total time served in prison, parole does not count the period of release towards the total time served. Justic Phukharn made the following observation in this regard: "Therefore, the legislature has created two classes of prisoners for the purpose of temporary release." If we compare these two sections, we find that Section 4's requirements for temporary release on furlough are more stringent, and a prisoner will not be eligible for such a release until he satisfies the requirements outlined in that section. However, section 3 only specifies the conditions under which a temporary release may be granted, not any strict requirements. Additionally, some prisoner groups are not eligible for furloughs... To address a prisoner's urgent personal issues, Section 3 was enacted (Babulal Das v. State of West Bengal, 1973)

A breach of the natural justice principle

The petitioner in Haider Khan Lai Khan Pathan v. State of Gujarat had been found guilty by the Additional Sessions Judge, Bombay court of a crime punishable under Section 302 of the Indian Penal Code. (Now 103 of BNS, 2023). He was initially given a death sentence by the trial court. The sentence had been changed to life in prison following the High Court's referral. There was no debate regarding this point. He had frequently taken advantage of parole leave while he was incarcerated. He surrendered 116 days after his seven-day parole release date, which was the deadline. Due to the fact that late surrender was a jail offence under the pertinent legal provisions, he was tried for it. The petitioner received another parole release for a period of about 21 days before returning 799 days later. He was detained by the police because he refused to surrender voluntarily. (Haider Khan Lai Khan Pathan v. State of Gujarat, 1993)

The jail superintendent tried him for the offence committed while he was a prisoner. They received punishment for their transgressions. Several arguments had been made that disputed the legitimacy and legality of the punishment schedule imposed by the jail authorities. The court ruled that the Inspector General of Prisons was required to give the relevant prisoner a chance to be heard before confirming any of the sentences listed in Rule 1285 of the Bombay Jail Manual. In this case, the Inspector General of Prisons did not hear from the prisoner before approving the punishment and changing the superintendent of jail's order of sentence. The idea that natural justice principles can be violated is well-established as being illegal and invalid. According to an analysis of the cases, judges have a compassionate attitude towards prisoners and have generally

favoured granting parole and furloughs. The importance of parole release has also been emphasised by the courts as a way to help reform and rehabilitate criminals and stop them from turning cruel and dehumanising. It controls recidivism as well.

On the other hand, this method helps the state by limiting prison overcrowding and managing financial matters. The sole justification that a prisoner's release on parole would jeopardise their social security cannot be used to deny them parole. The simple argument that a prisoner was unable to provide a security bond or surety bond cannot be used to invalidate their right to parole. Any prisoner with a history of good behaviour in custody may be granted parole, subject to some restrictions and conditions. The economy is not a factor in granting parole, but in these situations, parole may be tried for reasonable periods of time. The type of sentence and the seriousness of the offence are irrelevant. Parole is successfully used as a defence strategy even in cases involving white collar crime and preventive detention.

According to the study, there is also room for abuse in the parole system. The court's refusal of parole is another example of its humane side. The terms of parole seem to carry a significant risk if given to politicians. The judicial process is kind and considerate of the prisoner. While keeping in mind how helpful it can be to criminals, it is still important to prevent abuse. The parole cases have given prison therapy new dimensions, and parole has integrated itself into criminal law. Many times, if the prisoner can provide a medical certificate, parole has been granted on the grounds of the prisoner's illness. This benefit has frequently been misused. The court needs to be warned of this fact.

The distinction between the terms parole and furlough has also been made by the court. When a prisoner is on parole, the period of release does not count towards the total length of his sentence; however, when he is on furlough, the period of release may count towards the overall length of his sentence. The decision to grant parole should not be interpreted as an act of mercy, parity, or clemency. The authority must be used in a fair and sensible manner. It must steer clear of hardship, absurdity, inconvenience, or injustice. Therefore, parole should not be viewed as a form of leniency but rather as a therapeutic method created to fulfil specific social goals. (Haider Khan Lai Khan Pathan v. State of Gujarat, 1993)

CHAPTER 5

“PAROLE: AN INTERNATIONAL PERSPECTIVE”

5 Introduction

For an understanding of the system of parole in an international perspective the researcher in this study has selected Sweden, Canada, Pakistan, the U.K., and the U.S. to explore diverse and contrasting approaches to parole systems in developed and developing countries.

Sweden consistently reports lower recidivism rates compared to many other countries. This success is largely attributed to the country’s holistic and rehabilitative approach to criminal justice. Studying Sweden's parole system can provide insights into what works in reducing reoffending and preventing individuals from returning to prison, which could inform parole practices in other countries.

Canada has a well-established Parole Board, and its parole decisions are often based on thorough risk assessments. The Parole Board of Canada evaluates offenders based on various factors, including their behaviour in prison, rehabilitation progress, and the risk they pose to the public. Examining this system in the thesis can shed light on how well-structured risk assessment tools and parole hearings contribute to fairness and transparency in parole decisions.

Both India and Pakistan inherited their criminal justice systems from British colonial rule, and their parole systems are influenced by this shared legal heritage. The study can examine how both countries adapted their systems over time and the similarities or differences in their parole practices as they have evolved. It could highlight the different challenges such as limited resources, less emphasis on rehabilitation, and issues with overcrowded prisons.

United Kingdom and United States of America:

The U.K. has a unique system of parole involving extensive risk assessments, rehabilitation programs, and a focus on public safety. The country's legal framework, alongside ongoing debates about parole reforms, would be crucial to understand how parole operates within a common law system, and how it seeks to balance justice with reintegration.

The U.S. is often cited as a country with a complex parole system, varying from state to state, and is notorious for its high incarceration rates. Including the U.S. would allow for an analysis of the impact of mass incarceration, racial disparities, and the evolving nature of parole in different states. It would also help in exploring the tension between punishment and rehabilitation in parole decisions.

By analysing the system of parole of the above countries would enable a thorough exploration of parole practices across differing legal traditions, socio-political environments, and economic conditions. This comparative study can provide can also provide a comparative analysis of different models and identify best practices or areas for improvement in parole systems worldwide.

According to studies by Bayer et al. (2003), Wolfe et al. (2007), Cochran & Mears (2013), and others, prisons can be dangerous places for inmates because they can lead to isolation from loved ones and friends, criminogenic relationships with other inmates, and physical or psychological trauma. Some people might think that leaving prison and being able to live a life free of crime is the best part of serving a sentence, but for most inmates, this is not the case. Instead, leaving prison, which is a place of structure and dependency, can result in even more difficulties, such as a lack of social support, limited job opportunities, and the inability to break old habits like using drugs and alcohol (Aday 1976; Jarred 2000). The parole system assists offenders in reintegrating into society and provides resources to give them the best chance of becoming law-abiding citizens in order to ease these and other difficulties (Aday, 1976).

5.13 Defining Parole

The majority of criminals who are currently incarcerated will eventually be released from custody in any criminal justice system (Petersilia, 2004). The majority of systems use parole to monitor, rehabilitate, and reintegrate offenders while some release offenders without supervision (Justice Policy Institute, 2011). According to the Parole Board of Canada (2015), parole is the process by which a criminal is let out of jail and serves the

remainder of their sentence while being watched over by a parole officer in the community. Criminals on parole are also referred to as clients or parolees. Despite any potential political connotations in the language, depending on the terminology employed in the research, the thesis uses these terms interchangeably. The objectives of parole vary between criminal justice systems, but the majority use it as an economically advantageous alternative to protracted imprisonment and a humane way to promote desistance in a community setting (Healy, 2012). Because political, economic, and cultural trends influence perspectives on what parole should be, the way that parole is implemented has evolved over time and space. These parole objectives are frequently categorised as being either care- or control-oriented, and they also broadly refer to either punitive or rehabilitative correctional philosophies. According to Lipsey and Cullen (2007), rehabilitative correctional systems treat offenders to reduce recidivism and help them reintegrate into society as law-abiding citizens. The incarceration period is used by punitive correctional systems to punish and manage offenders (Andrews, 1990).

While some North American and European nations may have recently shifted towards punitive models, research suggests that Sweden and Canada still have rehabilitative correctional systems (Healy, 2012). The development of electronic monitoring technology (EM) and the rise of offender risk assessments have had an impact on the Canadian and Swedish parole systems over the past few decades. The likelihood of reoffending is evaluated in risk assessments, which can be written either arbitrarily in a narrative format or precisely through actuarial assessments (Bonta et al., 1990). Wearable tracking devices are used in EM to track and record offenders' whereabouts in neighbourhoods (Nellis & Bunderfeldt, 2013). The concept of managing offenders is at the core of managerial parole systems, which risk assessments and EM have created (Persson & Svensson, 2011). Risk assessment and emergency management (EM) need to be examined to see if they have been adapted to the pre-existing care and rehabilitation models, if they have sparked more control and punitive practises, or if they serve more balanced goals (Hannah-Moffat, 2004; Persson & Svensson, 2011) (Andrews, 2011).

Role orientations and attitudes of parole officers According to Persson and Svensson (2011), performing the dual duties of social caseworker and law enforcement is perhaps the most difficult part of being a parole officer. Studying the behaviour of parolees can be just as important as understanding how parole officers view their position and relationship to clients. According to research, developing an equal balance between the

care and control roles leads to positive officer-client interactions that have been shown to lower recidivism (Paparozzi & Gendreau, 2005). According to encouraging research (Fulton et al., 1997), parole officers can alter their perspective to give their clients the best chance of quitting a criminal lifestyle by changing their role orientations. Being a parole officer is a challenging job on an emotional level. Officers deal with challenging clients and make difficult decisions, such as recommending the client's return to prison and notifying a manager of broken rules. In an effort to prevent recidivism, parole officers may over-supervise low-risk clients or refuse pro-social activities to high-risk clients due to their overwhelming sense of responsibility to protect community members (Lewis et al., 2012).

These emotional demands can have a negative effect on officers' psychological wellbeing as well as 'burnout,' a state of emotional and physical exhaustion brought on by prolonged stress (Whitehead & Lindquist, 1985; Lewis et al., 2012; Gayman & Bradley, 2013). Lewis et al. (2012) discovered that officers experienced traumatic stress and burnout after having clients commit suicide, recidivate violently, or assault them while on duty. The authors argued that stress management programmes, higher education, and regular stress assessments could lessen the effects of occupational stressors and improve officers' capacity to handle stressful situations in the future. Role conflict was found to be related to depressive symptoms and burnout by (Bayer et al, 2003).

These and other studies support the idea that parole officers require education and support in order to maintain a balanced approach to their work, as doing so will not only strengthen officer-client relationships and encourage desistance but also result in healthier officers with lower staff turnover. As was already mentioned, the approaches to parole in Sweden and Canada are now both more risk-oriented. It is unclear if officers in each nation have adjusted their role orientation to fit the new risk and managerial environment or if they have encountered resistance to this change. According to evidence (Persson & Svensson, 2011), officer role orientations don't always correspond with the philosophies of their criminal justice systems. According to Samra-Grewal and Roesch (2000) and Persson & Svensson (2011), this misalignment is frequently attributed to the state's high demands, parole officers' limited time and resources, or conflicting attitudes towards clients' needs. It makes sense that the best parole system would be one in which the organisations that employ parole officers and themselves share the same objectives and client expectations. To create a focused and purposeful parole system, institutional

reorganisation or officer training should be used if there is an ideological misalignment (Belfrage & Strand, 2012).

5.14 The history of corrections in Sweden

The Swedish Prison and Probation Service, a specific division of the Ministry of Justice that oversees parole in Sweden, receives public funding totalling 8.1 billion Swedish kronor, or roughly 1.2 billion Canadian dollars (Swedish Prison and Probation Service, 2016). Police, victim compensation, courts, public prosecutors, and crime prevention research are all included in the Ministry of Justice (Ministry of Justice, 2015). The SPPS, which operates on a national scale and combines parole and probation into one category, means that offenders on both probation and parole are included in the cases of officers (*ibid*). Past research is especially poignant for cross-cultural comparison because it has produced generalizable results on a national scale as opposed to a regional one when studying a country like Sweden with a national parole and probation system. It is necessary to provide some background information on the Swedish criminal justice system before getting into specifics about current parole procedures. French social defence theory, which holds that criminology affects both policy-making and practise (Hamai et al., 1992 as cited by Nellis & Bungerfeldt, 2013), has historically had a significant influence on Swedish correctional services. According to the social defence theory, criminology and criminal law work together to benefit both the individual and society, this change started to take place in most Scandinavian nations around 1948 (Canals, 1960).

Since then, Sweden in particular has come to be seen as a 'liberal utopia' with cutting-edge and compassionate correctional practises and philosophies (Nellis & Bungerfeldt, 2013). In comparison to countries like Canada and the United States, Sweden currently has one of the lowest incarceration rates in the world at 55 prisoners per 100,000 citizens (Carson, 2014; Institute for Criminal Policy Research, 2015; Statistics Canada, 2015). As evidenced by the growing use of electronic monitoring and other community sentencing and supervision options, Sweden also has some of the shortest prison terms of any criminal justice system in the world (Marklund & Holmberg, 2009; Nellis & Bungerfeldt, 2013). The use of effective reintegration and post-release plans, alternative

community sentences, and prison-based rehabilitation tools all contribute to reducing the prison population in Sweden today while also paving the way for long-term sobriety (Black et al., 2001).

Sweden, like almost every other state, has not historically had a purely punitive or rehabilitative correctional system. Instead, it is best to consider the current state of any correctional service as temporally situated, with numerous confusing elements that reflect societal context and political upheaval. For instance, from 1929 to the middle of the 1950s, many Western nations adopted sterilisation and castration laws that were eugenics-inspired (Wessel, 2015). Though most Western societies had adopted a purely eugenic viewpoint, sterilisation and castration laws in Sweden were passed under the guise of humanitarianism and social welfare (ibid). Most often, homosexual women and some male sexual offenders were the targets of sterilisation. Castration could be applied to offenders over the age of 21, as well as offenders of any age who were mentally ill, in order to suppress dangerous sexual tendencies (ibid). Sweden stopped performing castrations and sterilisations in the 1950s, and the law was formally repealed in the 1970s. Despite this legislation, Sweden continued to gain recognition as a pioneer in compassionate care and forward-thinking rehabilitation practises (Bonta et al., 2005).

5.14.4 The parole system in Sweden

The more precise subject of parole can now be discussed after the modern ethos of Swedish corrections has been taken into account. Despite the fact that the sentences that parolees and probationers serve are different, parole and probation are grouped together under one profession. Probation is an alternative sentence to prison altogether through community supervision and typically entails either volunteering or treatment, whereas parole refers to a mandatory release and community supervision of a prisoner after serving two-thirds of their prison sentence (Holmberg et al., 2012). Due to the 1918 Conditional Sentence Act and its amendment in 1939, police, clergymen, laypeople employed by local governments, and other professionals in a similar field were the first to supervise offenders in the community (Lindholm & Bishop, 2008). The first four full-time parole officers in Sweden were appointed in 1942, and after three years, there were thirteen of them (ibid). After the profession of parole officers was established, it took 20 years before officers were accessible throughout Sweden (ibid). The supervision of over

40% of probationers and parolees is assisted by lay supervisors today, continuing a tradition that has existed in Swedish parole and probation for years (Kalmthout & Durnescu, 2008; Lindholm & Bishop, 2008).

To monitor offenders, layman supervisors are used, either voluntarily or for a small fee. For many reasons, involving volunteers in the parole process is extremely advantageous to SPPSs. Volunteering, in the eyes of the average person, introduces them to the Swedish legal system and fosters a sense of collective responsibility for crime. Additionally, having layman supervisors is advantageous for offenders because they can play a more humane, as opposed to institutional, role in the parole process by meeting with offenders on a weekly basis and offering social support (Holmberg et al., 2012). But in some circumstances, such as those involving offenders with mental illnesses, histories of abuse, or affiliations with criminal organisations, having a layman supervisor is unacceptable. Involving layman supervisors is also very advantageous for the SPPS because it reduces the workload of full-time parole officers while also providing an efficient means of supervising offenders (Holmberg et al., 2012). Layman parole officers frequently have backgrounds in social work or are "blue collar" workers, and they occasionally know their clients. Family members are typically not considered because a screening process is used to make sure that there is no dependency dynamic between officers and clients with pre-existing relationships. These volunteers' responsibilities include weekly social visits, typically in the form of walks or coffee dates. The professional probation officer, the lay officer, and the client must meet at least once every three weeks in order to effectively set and achieve parole goals. Both the care and control components of parole can be achieved by adding layman supervisors. Layman supervisors build trusting relationships with offenders to encourage communication and social rehabilitation, which is consistent with care-based principles. As opposed to parole officers, lay supervisors interact with clients more frequently, making them effective agents of control and surveillance. Although parolees have expressed their gratitude for the friendship and understanding that the majority of layman supervisors offer, there is no evidence to suggest that layman supervisors have an impact on crime prevention by promoting desistance. ((Holmberg et al., 2012)

Over three times as many parolees and probationers work in Sweden's 43 probation and parole offices each year as there are 4,500 inmates currently incarcerated (Swedish Prison and Probation Service, 2016). Conditional sentences, probation, and parole are three

types of clients that parole officers may be tasked with looking after. Courts may impose conditional sentences, which are two-year periods during which the offender will not be imprisoned if no additional crimes are committed (Holmberg et al., 2012). The majority of first-time, low-risk offenders who don't need intensive or formal supervision receive conditional sentences (Canal, 1960).

Courts may also mandate probation for offenders, which, like a conditional sentence, serves as an alternative to incarceration. With mandatory meetings, probation entails stricter, more formal supervision (Holmberg et al., 2012). Contract treatment is when the court sets probation requirements that the offender must adhere to with the help of social services and probation officers. For instance, if a person was charged with an offence involving alcohol, they might be required to attend meetings on substance abuse. Treatment for abuse, dependency, or any other factor that contributed to the initial offence is the aim of the contract treatment for probationers. Conditional release clients make up the third group of clients who work with probation officers. Given that parole is a promise a prisoner makes to not bear arms or flee the country after being conditionally released, conditional release and parole are synonymous (Morieux, 2013). According to Holmberg et al. (2012), parolees are criminals who serve the final third of their sentence either full- or part-time outside of prison. Reintegration techniques and ongoing supervision are necessary for parolees to become productive and law-abiding citizens.

5.15 Canada correctional history

Like in Sweden, the federal government is in charge of Canada's parole system. While Canada's Department of Public Safety delegated decision-making authority to the Parole Board of Canada (PBC) and appointed supervision through Correctional Service Canada (CSC) (Bonta et al., 1999), Sweden's SPPS served as a single, centralised agency to dictate parole regulations. With an annual budget of 1.8 billion Canadian dollars, or roughly 11.4 billion Swedish kronor, CSC is supported by the public. Despite having nearly twice as many prisoners as Sweden, Canada has a national correctional budget that is only \$500 million higher than Sweden's, suggesting that Swedish parole officers and offenders have access to more resources than those in Canada (Public Safety Canada, 2010). Only offenders who have been given a sentence of two years or longer are eligible for parole, while those who have received shorter sentences are typically served in

provincial facilities along with some form of probation (Parole Board of Canada, 2015). Contrary to the SPPS, the CSC has separate but related professions such as probation officers and parole officers. The difference between probation and parole is complicated because both types of officers frequently work in the same offices even though probation is a provincial issue and parole is a federal one (Cullen et al., 2001).

The history of incarceration in Canada as well as the present state of the correctional system must be examined in order to fully comprehend the Canadian parole system. Kingston Penitentiary, the first jail in Canada, opened its doors in 1835 and used the Auburn System (McCoy, 2012). The outdated Auburn System attempted to instil order, respect for property and other people through labour as well as inmates' complete silence, which was intended to elicit reflection and penitence. To develop character and serve as a deterrent from further offence, harsh working conditions were used (ibid). According to the Auburn school of thought, prisons should be "so irksome and so terrible that [a prisoner] may dread nothing so much as a repetition of the punishment" (McCoy, 2012), the harsh working conditions were later referred to as "forced penal servitude." Even though less physically taxing work and more opportunities for group recreation became available in Canadian prisons, the idea of retribution and punishment persisted in Canadian psychology well into the 20th century (Parole Board of Canada, 2015). There were views that prisons and parole should be punitive even among the leading proponents of systemic change in the criminal justice system ((Parole Board of Canada, 2015)). One example of this was Brigadier Archibald's 1908 claim regarding the advantages of parole and prisons. While acknowledging that "a system which does not inflict punishment is a dangerous menace to both citizen and state" (Parole Board of Canada, 2015, p. 25), Archibald also argued that criminals who are ill are not incurable if they want to be helped. Penology and the use of alternative sentences would both change significantly throughout the 20th century in the Canadian correctional system. A cultural change was aided by volunteer organisations like the John Howard Society and the Salvation Army. Through volunteer advocacy and a cultural shift, Canadian criminology transitioned from retributive punishment to reformation and rehabilitation, placing humanism and the welfare of all citizens at its core ((Parole Board of Canada, 2015)). In contrast to Sweden, changes to the criminal justice system frequently do not spread evenly across the country. Rather, prior to federal legislation being unified, each province and territory created its own correctional environment. Up until the 1970s, two of Canada's ten provinces—

Alberta and British Columbia—passed laws requiring the sterilisation of particular groups, similar to those in Sweden and many other nations. However, the reasons for sterilisation use vary by nation. Swedish sterilisations were carried out under the pretence of humanitarianism, as was already mentioned. However, in Canada, sterilisation was solely performed for eugenic purposes in the belief that doing so would purge the nation's gene pool, making it morally acceptable. As opposed to Sweden, where homosexuals and sexual offenders were the only groups targeted for sterilisation, British Columbia and Alberta only sterilised the mentally ill, only some of whom were also criminals ((McCavitt, 2013).). The distinction is significant because, while Canada's sterilisation laws may have been less morally permissible, they were more open-minded. The Swedish adoption of sterilisation originated as a then-publicized humanitarian act of social welfare. The difference suggests that while Canada's correctional goals have not been as linear, with overtly punitive and retributive goals up until the last half of the 20th century, Sweden's correctional goals have at least always attempted to pursue goals that they felt kept inmates' humanity at its centre (Fulton et al., 1997).

Similar to Sweden, volunteers and humanitarian organisations had a big impact on how Canada's corrections system developed. Major advocates for the treatment of prisoners and parolees included the John Howard Society, the Salvation Army, and later the Elizabeth Fry Society. They pushed for improvements to prison living conditions, shortened prison terms, and gradual release schedules (Parole Board of Canada, 2015). Prison reform was put on hold during World War II, but after it ended, there was a significant reform that resulted in "perceptible lightening of the atmosphere in Canadian prisons" (Parole Board of Canada, 2015, p. 87), with softer rules and rehabilitative treatment. In addition to reducing the negative effects of inactivity and solitude while incarcerated, the Post-War penology reforms also provided access to psychologists, social workers, and teachers, which gave prisoners hope and opportunities after release (Parole Board of Canada, 2015, p. 87)).

American, British, and Scandinavian penology were a significant influence on Canadian criminology reform up until 1975. But at about this time, something changed, establishing Canada as a pioneer in criminology and rehabilitation techniques. Robert Martinson, an American criminologist, wrote in 1974 that there is no effective method for rehabilitating criminals and that current efforts to do so have no effect on recidivism (Cullen & Gendreau, 2001). Canadian criminologists place more emphasis on research

regarding criminogenic factors and the predictive power of current risk assessment techniques to demonstrate what works, as the nothing works ideology casts a pessimistic shadow over the field of corrections in the U.S. (Parole Board of Canada, 2015). The ambitions of Canadian researchers and this divergent viewpoint from the United States set Canada apart from other countries in both North America and Europe. The new Canadian rehabilitative principles and programmes were quickly incorporated into British and Scandinavian culture (Cullen & Gendreau, 2001). The death penalty was also abolished in Canada in 1976, further separating it from the United States (Parole Board of Canada, 2015). Canada's judicial system would continue to follow a just deserts framework while also keeping in mind rehabilitative principles over the ensuing few decades. The treatment of criminals would continue in Canada, and sentencing decisions would be made in accordance with the seriousness of the crime and the risk posed by the offender (Parole Board of Canada, 2015). In the Canadian criminal justice system, offenders would be handled with a firm but fair hand and with the goal of rehabilitation if these principles were kept in mind.

5.15.4 The parole system in Canada

Although there are some significant differences, the Canadian parole system shares many similarities with the Swedish system. As opposed to Sweden, Canada has separate careers for parole and probation officers. According to the Parole Board of Canada, provinces are in charge of managing probation for criminal defendants given sentences of less than two years in prison. On the other hand, parole officers deal with criminals who have completed at least a two-year sentence, at least a third of which was served in the community (Parole Board of Canada (2015)). Also to be noted is the fact that, even though release after serving two-thirds of a sentence is required, the Parole Board of Canada (PBC) has the authority to deny this right if the offender "is likely, if released, to commit an offence causing the death of or serious harm to another person before the expiration of the offender's sentence" (Manson 1997, p.235). The majority of community offices contain both parole and probation officers who share available community resources, despite the fact that these professions are distinct but very similar in their job duties and expected qualifications (Manson, 1997). The PBC, which has the authority to grant, deny, and revoke parole, makes parole decisions (Parole Board of Canada, 2015). Naturally, the PBC and Correctional Service Canada (CSC) collaborate closely, but the two organisations remain independent (Gayman et al., 2013).

The Ticket of Leave Act, which was passed on August 11, 1899, marked the beginning of parole in Canada (Parole Board of Canada, 2015). The law gave offenders "tickets of leave," which allowed prisoners to be released into the community with limitations. Sir Wilfred Laurier, the country's prime minister at the time, specified what a ticket of leave was for:

According to the Parole Board of Canada (2015), "a young person of good character, who may have committed a crime in a fit of rage, or perhaps, have fallen prey to bad example, or the influence of unworthy friends. There is a good report on him[/her] while in confinement and it is presumed that if he[/she] were given another chance, he[/she] would be a good citizen."

Criminals with leave tickets had to check in with a supervisor, who was frequently a police officer. With some of their volunteers serving as "dominion parole officers," which would be the first official position of its kind in Canada, The Salvation Army played a particularly significant role in the history of parole in Canada.

Until the Parole Act, which placed a strong emphasis on the use of rehabilitation in the prisoner reentry process, was passed in 1959, the Ticket of Leave Act was in effect (Parole Board of Canada, 2015). The PBC was established as an independent body by the Parole Act (Parole Board of Canada, 2015). PBC members were initially elected for 10-year terms, in keeping with the Swedish belief that corrections shouldn't be influenced by societal or political trends. However, the Parole Act was changed to include mandatory supervision within the first ten years of this election. Inmates under mandatory supervision had to be released to serve the balance of their sentences in the community under the same restrictions as regular parolees after accruing more than 60 days of remission, or time off their sentence for good behaviour. The Canadian correctional system underwent significant change as a result of the legislative amendment and establishment of the PBC, with the chance that a prisoner would be granted parole rising from 20% in 1960 to 65% in 1972 (Parole Board of Canada, 2015). Since then, parole has encountered some enduring hostility; the Canadian Sentencing Commission even suggested that parole be abolished because it was thought to be incongruous with the objectives of prison sentences (Parole Board of Canada, 2015). This advice was largely given in response to a number of crimes committed by people under parole or mandatory supervision (ibid). A new vocabulary for corrections was introduced in 1992

with the passage of the Corrections and Conditional Release Act, most notably risk assessment and risk management (Public Safety Canada, 2010). Currently, parole decisions heavily weigh the risk factor, especially when it comes to violent and sexual offenders. In addition to extending parolees' rights, the 1982 passage of the Charter of Rights and Freedoms and the Corrections and Conditional Release Act both aimed to position parolees as agents of change in their own rehabilitation and reintegration. The current Canadian parole system has been developed to encourage change and rehabilitation while being transparent with clients through firm and fair treatment. This aspect of parolees being involved in the process, the extension of their rights, and the notion that parole is conditional on one's risk have thus shaped the system.

5.16 Pakistan's system of parole

Pakistan reinstated the British government's probation law-related criminal justice system after the subcontinent was partitioned. The Good Conduct Prisoner Probationary Release Act of 1926 was put into effect. The law relating to the release of prisoners on parole was given to the provincial government in 1927 and is known as the Reclamation and Probation Department (RPD). First, the province of Punjab imposed the RPD; the rest of the country followed in 1957. Its effectiveness is offered to convicted inmates who have demonstrated good behaviour in preparation for release on probation, but its applicability is only to inmates serving short sentences. In 1931, the British government plans to create separate probationary laws. A bill was created for this purpose and sent to every province for comment. Unfortunately, the independence movement in the nation prevented the bill from becoming law. The probation of offender ordinance, which was passed by the Pakistani government in 1960 and was nearly identical to the probation bill of 1931. Its main goal was to make probation a government function and give probation officers access to offenders. The juvenile justice system ordinance 2000 was recently introduced by the Pakistani government in accordance with the international requirement of the United Nations Convention on the Rights of the Child. Alternative forms of imprisonment are currently available in Pakistan's criminal justice system, including pre-arrest bail during the trial stage, fines and probation during the sentence stage, and parole during the trial stage. The people who are most familiar with bail terms and who generally follow them during court proceedings.

People's fundamental rights were violated when probation and parole were not followed, whereas in the former case. The concept of retaliatory punishment is almost obsolete today, and justice and a friendly human society have taken its place. The majority of prisons in Pakistan are overcrowded, which contributes to issues like poor health and hygiene, high-risk behaviour (like suicide, unprotected and forced sexual contact, drug abuse), and poor prison management that results in torture, riots, and corruption. Prisoners who receive inadequate rehabilitation services are also at a high risk of reoffending, especially those who are first-time offenders or have committed minor offences. The Human Rights Commission of Pakistan (Mccavitt, 2013) estimates that remand prisoners make up about 64% of the total prison population. When it comes to the community reintegration of offenders and the reduction of the prison population, an effective and efficient probation and parole system can be instrumental. This in turn helps with better prison management and the general improvement of prison conditions. Penal Reform International conducted this review to analyse the current probation and parole system in Pakistan, formulate suggestions for its improvement, and promote the noncustodial measures of probation and parole. Focus groups, key personnel interviews with stakeholders, such as the provincial directors of reclamation and probation, probation and parole officers, prison officials, legal counsel, and representatives of civil society/NGOs/INGOs, as well as desk reviews of pertinent reports and literature, were used to collect information. The results of this review led to the following conclusions.

5.16.4 Pakistan's probation and parole System: structure and operation

In Punjab, Sindh, Baluchistan, and Khyber Pakhtunkhwa, Provincial Directorates of Reclamation and Probation, which function as departments attached to the Provincial Home Departments, are responsible for managing the release of prisoners on probation and parole as an alternative to imprisonment. A Director of Reclamation and Probation (R&P) oversees each Provincial Directorate, who are assisted by Deputy Directors, Assistant Directors, probation and parole officers, office superintendents, and other administrative and support staff. The Directorates of Reclamation and Probation have as their overall mission to "kill the crime not the criminal," decrease prison overcrowding, reduce government spending on prisons, and rehabilitate and reintegrate offenders as law-abiding citizens. However, a lack of political will, insufficient human and skilled resources, and inadequate infrastructure are impeding their ability to effectively participate in Pakistan's criminal justice system. The distribution and designation of staff

may vary by province, but overall operation is the same and is governed by the following legal documents:

- The West Pakistan Probation of Offenders Rules, 1961; the Probation of Offenders Ordinance (XLV of 1960)
- The Good Conduct Prisoners' Probational Rules of 1927 as well as the Good Conduct Prisoners' Probational Release Act of 1926
- The Juvenile Justice System Ordinance of 2000 and its Implementation Guidelines Parole

In some circumstances, prisoners or offenders may be granted conditional release, or parole, before serving the full term of their sentence. After completing a mandatory period of their substantive sentence in prison as required by the Good Conduct Prisoner's Probational Release Act, 1926 and Rules 1927, prisoners on parole serve the remaining time of their sentences in the community. These regulations give the province's Executive (Home Secretary) the authority to grant certain offenders parole. The provincial government may issue a licence of release on the condition that the prisoner continues to be under the supervision of a parole officer or a "secular institution" or of a "person or society professing the same religion as the prisoner" when it is satisfied that the prisoner's prior record or good behaviour suggests that he or she would likely abstain from crime and lead a "useful and industrious life" in the community. The parolees work for the approved employers of the respective provincial R&P Directorates for fixed wages and specific terms and conditions while being supervised by a parole officer (Walters et al., 2010).

Any individual or organisation is free to submit an application to the R&P Director in order to become a potential employer. The R&P Director will then decide whether to approve the employer or reject the application if it does not meet the requirements after thorough review and on the advice of the district administration where the potential employer is located. The employer must meet a number of criteria, including: being a resident of the same province, being in good standing, not engaging in any illegal activity or trade, and being able to provide housing, clothing, food, and wages to the parolee. The minimum monthly salary must be 1000 Pakistani rupees, but it may be higher depending on the parolee's skills. At the conclusion of the entire parole period, the parolee receives

the entire amount deposited by the employer into a bank account in the name of the appropriate parole officer (Whitehead et al., 1992).

On the condition that the pertinent parole officer approves, the parolee may also receive a portion of his monthly salary for personal or family use. Prisoners may be chosen for parole based on an application submitted by them or a member of their family, or based on the Superintendent's (the jail's governor) recommendation. To choose suitable inmates for parole release, the Assistant Director and parole officer are also permitted to visit the jails. According to the evidence, these visits are not frequently conducted because there are not enough parole officers and there is insufficient coordination between prison administration and the parole officers. In order to address the issue of understaffing, probation officers have been given additional responsibilities of a parole officer in the majority of districts. After prisoners on parole are released, the parole officer has additional duties and functions, such as monitoring and rehabilitating offenders, paying wages, making periodic visits to parolees, reporting to his or her supervising officer (for instance, the Assistant Director R&P about a parolee's performance at work), and handling complaints. All four provinces have established parole committees in accordance with the National Judicial Policy Making Committee's (NJPMC) June 2009 recommendation. These committees are made up of the Additional Secretary Home (chairman), Director R&P, and District Police Officer of the relevant District, Additional Inspector General Prison, and Superintendent of the relevant Prison, Director Prosecution, Representative of civil society organisation, well-known academic, and any other member co-member. In some of the provinces, the committee's setup may vary slightly depending on the local human resources that are available. The committee's role is advisory, and the Home Secretary grants parole requests based on its recommendations. By involving representatives from a variety of pertinent agencies, this is unquestionably a positive development in strengthening the parole system (Renzema & Wilson, 2005).

5.16.5 Extent of the parole system

The Good Conduct Prisoners' Probation Release Act, 1926, and its Rules, 1927, as well as executive orders for implementation, form the foundation of the parole system. The scope of some of the provisions and executive orders must be expanded. For instance, parolees must work at least 45 miles from their immediate families and can visit them on a casual leave with the appropriate parole officer's permission. After completing the first

six months of the parole period, the parolee is qualified for casual leave. This clearly violates both the superintendent's (jail governor's) right to a family life. To choose suitable inmates for parole release, the Assistant Director and parole officer are also permitted to visit the jails. According to the evidence, these visits are not frequently conducted because there are not enough parole officers and there is insufficient coordination between prison administration and the parole officers. In order to address the issue of understaffing, probation officers have been given additional responsibilities of a parole officer in the majority of districts. After prisoners on parole are released, the parole officer has additional duties and functions, such as monitoring and rehabilitating offenders, paying wages, making periodic visits to parolees, reporting to his or her supervising officer (for instance, the Assistant Director R&P about a parolee's performance at work), and handling complaints.

All four provinces have established parole committees in accordance with the National Judicial Policy Making Committee's (NJPMC) June 2009 recommendation. These committees are made up of the Additional Secretary Home (chairman), Director R&P, District Police Officer of the relevant District, Additional Inspector General Prison, and Superintendent of the relevant Prison, Director Prosecution, Representative of civil society organisation, well-known academic, and any other member co-member. In some of the provinces, the committee's setup may vary slightly depending on the local human resources that are available. The committee's role is advisory, and the Home Secretary grants parole requests based on its recommendations. By involving representatives from a variety of pertinent agencies, this is unquestionably a positive development in strengthening the parole system (Motiuk, 1994).

5.16.6 What separates probation from parole?

Both probation and parole are used to help offenders get back into society and the community. The following are the primary procedural and structural distinctions between the two non-custodial sanctions:

- The judiciary issues probation, while the Executives approve parole;
- The term "probation" refers to the suspension of the sentence or deferral of the decision while parole is granted during the remaining time of the sentence after a prisoner has served their mandatory time behind bars; and

- The Executive revokes parole, while the judiciary is in charge of revoking probation.
- Analysis of Pakistan's probation and parole services

The capability and primary duties of probation and parole services in Pakistan can be summed up as follows in light of the global framework:

For a period of not less than one year nor more than three years, the offender is sent back to the community while under the supervision of a suspended sentence or a postponed final judgement of the court that does not require deprivation of liberty. In accordance with the court's instructions, the probation officer creates a Social Investigation Report (SIR) to help the judge decide whether to release the offender on probation. The early conditional release of a good-conduct prisoner during the penultimate stage of their sentence under the supervision of a parole officer is referred to as parole in this context.

The probation and parole officers are required by law to visit prisons, work with prison administration to identify offenders who appear eligible for probation or parole, and meet with them for evaluation interviews. The current law prohibits probation and parole officers from helping prisoners inside the prison in any other ways.

Once a trial starts, the probationary system is put into operation. With the exception of the Juvenile Justice System Ordinance 2000, which gives probation officers some responsibilities at the police station level, it is not mandated by law that they offer mediation or provide alternatives to pre-trial detention. According to the law, the officer in charge of the police station where the child is being held is required to notify the guardian of the minor and the concerned probation officer as soon as possible after the arrest in order to provide the juvenile court with any information it may need to conduct an investigation. In actuality, there are no examples of police contacting probation officers at the time of a juvenile arrest. Evidence suggests that the majority of police aren't even aware that probation officers exist (Justice Policy Institute, 2011).

- In a similar vein, the Department of Reclamation and Probation has no designated role in primary crime prevention, such as working with groups or individuals who are at high risk of committing a crime for the first time. In order to reduce the likelihood of recidivism, they begin their work at crime prevention during the community rehabilitation of offenders released on probation or parole. In Pakistan, community reintegration of offenders is essentially non-existent. In

terms of skilled human resources and logistics, the R&P department is unable to meet the needs for the successful reintegration of offenders into the community. Currently, not every district has access to the fundamental services of phone and fax. There are some locations without a formal office. The provincial government KPK recently approved official transportation for probation and parole staff, but it has not yet been made available. Except for Punjab, other provincial governments have also taken action to provide transport.

- The current laws governing probation and parole contain no provisions for working with crime victims, enforcing fines, or compensating crime victims, which restricts their ability to meet the needs of the victim. However, because the system is currently undergoing a rapid phase of transition, it will be too early to add the component of restorative justice to the role of probation or parole departments.
- There is no institutionalised training programme for the staff of the departments of reclamation and probation. At the National Institute for Prison Administration (NAPA) Lahore, which is primarily in charge of training prison staff, initial induction staff typically receives brief training. The staff's capacity building is the most crucial area that requires immediate attention.

5.17 Parole in U.S. and U.K.

5.17.4 Legal framework

The legislative basis for parole hearings may differ from nation to nation. In several countries, including the United States, parole is a form of discretionary release. In some countries, such as the United Kingdom, parole is mandatory, and parole boards must consider the release of every eligible prisoner. Several criteria have been established and must be met in order to determine parole eligibility and subsequent release.

5.17.5 Citizen participation

The involvement of the general public in parole hearings may also vary. In some nations, such as the United States, parole hearings are common, and the public is given the opportunity to voice its view. In other countries, like as the United Kingdom, public hearings were less frequent and recidivism risk assessment was prioritised. The United Kingdom has just instituted the option of requesting a public hearing, which may or may

not be granted. The first public parole hearing in the history of the United Kingdom is planned to take place on December 12, 2022, following enhancements to increase transparency and improve parole system victim experiences. (Ministry of Justice, HM Prison and Probation Service and The Rt Hon Dominic Raab, 2022)

Moreover, the method for granting parole may differ from one jurisdiction to another. In the United States, the parole board has extensive decision-making authority, and public opinion can influence its choices. In India, for example, the parole board/admirative authorities evaluates the case based on its merits and receive recommendations from Superintendent of Jail, police station if granting release would be consistent with parole standards.

5.17.6 Transparency

The level of openness during parole hearings is a further variable aspect. In the United States, the general public and the media have access to public hearings, and internet transcripts may be made available. The parole applicant and other relevant parties, such as their legal representatives, the prison governor, and the victim or their family, would be informed of the parole board's decision and receive a copy of the transcript in the United Kingdom.

5.17.7 A comparison of the parole procedure and the public hearing

5.17.7.1 United Nations of America

In the United States, state parole boards hold public hearings on parole. Those having the authority to grant or deny parole to eligible inmates are appointed to parole boards. When determining whether to grant parole, parole boards frequently conduct private interviews with convicts and assess their criminal records, institutional behaviour, and other relevant factors. (U.S. Parole Commission, U.S. Department of Justice)

During a parole hearing, the prisoner will appear before a parole board, which is normally comprised of state or federally appointed officials. The board will assess the prisoner's case, including their criminal background, prison conduct, and any other circumstances that may affect their release eligibility. During the hearing, the prisoner will have the opportunity to speak, as will any victim or family member who wishes to address the board. Also, the board will consider any written statements from the prisoner, victims, or any parties with an interest. (U.S. Parole Commission, U.S. Department of Justice)

Procedures and requirements for parole hearings differ from state to state in the United States, and not all jurisdictions hold parole hearings in public. In several states, the public can participate in the parole process through public hearings. (U.S. Parole Commission, U.S. Department of Justice)

Because parole regulations vary significantly from state to state, it is difficult to estimate the exact number of states that hold public parole hearings. In 2021, at least 24 states will include some form of public participation in the parole process, such as public hearings, victim impact statements, or other feedback. Alabama, Arizona, California, Connecticut, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Missouri, Nevada, New Jersey, New York City, State of North Carolina, Ohio, Pennsylvania, Tennessee, Texas, Virginia, and Washington make up these states. The procedural and rules and regulations for parole are subject to change from time to time.

The state of Indiana's official government website displays the following message allowing for parole hearings to be held in public when applicable or feasible in the interest of justice: "A Parole Board Hearing is a proceeding in which the parole board permits the offender, victims, witnesses, and other interested parties to express their support or opposition for the parole of the offender. The parole process involves two distinct hearings before the parole board.

The public hearing is informal, and all parties, including victims, witnesses, and family members, are welcome to express their support or objection to the parole of the criminal. You have the right to make an oral, written, filmed, or audiotaped statement to the board. You would not be required to be present to submit a statement." (Indiana Department of Correction)

5.17.7.2 [United Kingdom](#)

The parole hearing statute in the United Kingdom underwent a significant revision lately, with rule 15 containing new requirements.

The Parole Board (Amendment) Regulations 2022 (Parole Board Amendment Rules 2022. Instrument, 2022 no. 717) amended the Parole Board Rules 2019 beginning on July 21, 2022. The National Archives published version of the rules has not yet been modified. Rule 15 currently says:

"1) An oral hearing must be held via video link, telephone conference or other electronic means if the duty member or panel chair so directs.

(2) In all other cases, the oral hearing must be held at the location designated by the duty member or panel chair, with the approval of the Secretary of State.

(3) An oral hearing (including a direction hearing or case management conference) must be held in private unless the Board chair determines, on their own initiative or in response to an application to the Board, that holding the oral hearing in public is in the interests of justice.

(3A) Any request for a public oral hearing under subsection (3) must be made no later than 12 weeks prior to the scheduled oral hearing date.

(3) Whenever an oral hearing is conducted in public, the panel chair or duty member may direct that a portion of the hearing be conducted in private.

(5) During the oral hearing, the parties may not contest the presence of any witness called pursuant to these Rules or observer whose presence has been approved pursuant to Rule 14." (Joshua Rozenberg, 2022)

As a result, these new regulations have ushered in the era of public hearings in parole procedures, where a hearing may be requested if the parole board judges it to be in the interest of justice or in response to an application. When a section of a procedure is to be discussed or presented that may contain confidential information or evidence that is not to be made public, the board may order that portion of the procedure to be done in private and records to be sealed.

The Deputy Prime Minister, Lord Chancellor, and Secretary of State for Justice, Dominic Raab MP, stated that permitting parole hearings to be held in public is a huge step forward for victims who wish to witness justice being served in person.

"It marks the first step in our reforms to overhaul the system – putting victims and public protection front and centre of the process." (Ministry of Justice, HM Prison and Probation Service and The Rt Hon Dominic Raab, 2022)

CHAPTER 6

"PAROLE: A CRITICAL EVALUATION WITH REFERENCE TO THE STATE OF MADHYA PRADESH"

6. Introduction:

Criminals are not born but made, according to modern criminal jurisprudence. This is due to the fact that each time a crime is committed, it is the result of a confluence of a number of different factors, and that a significant number of crimes are the consequence of the socio-economic environment. These factors could be social and economic, or they could be the result of the erosion of moral values caused by the neglect of one's parents, the stress of one's circumstances, or the impulse to engage in criminal behavior in the heat of the moment (Criminal Justice India Series, 2001). Therefore, whenever criminal activity takes place, it is not always the case that the person so involved had prior intention to commit the crime; as a result, sending such a man to prison for a period of time can frequently infuriate him, and when he comes out from behind bars, he becomes an enemy of society. Therefore, it is of the utmost importance to reignite his interest and incorporate him into the general flow of life. These kinds of rekindling can be attempted most successfully through parole and probation, community service, creative and employment opportunities, and similar programs.

6.13 Probation and Parole System Activity in India's criminal justice administration

The administration of criminal justice is a policy that studies the ways in which the volume of harmful conduct in society can be limited. The subjects of investigation in criminal justice include: (a) appropriate social organisation whereby harmful activities may be prevented; and (b) the treatment to be accorded to those who have caused harm. However, the last-mentioned investigation involves decisions as to which appropriate sanctions can be imposed undesirably (Saini & Kamal, 2000).

It is possible that the researcher looks at the various reasons why punishment is inflicted on the offender before discussing the value of correctional services like probation and

parole in the administration of the criminal justice system in India. The various objects of punishment include:

6.14 Retributive

Retributive refers to deserved punishment; retributionists called it the most immediate and animalistic reaction. It is frequently observed that when people are unhappy with how the law and justice system, particularly the police, are operating, they react spontaneously and mercilessly, beating or even killing the criminals they have apprehended (Rajan, 1995). On the other hand, a strict crime and justice system can sublimate or suppress these animal feelings.

6.15 Expiative

Expiative is an early and ancient justification of punishment. Earlier, the logic was that a criminal is a source of infection to the society and therefore he deserved to be expiated (Supra 26, p-504). The various methods of early expiation that were adopted included stoning to death, putting an iron rod on the back, dismemberment of limbs and other severe physical tortures. In Expiation often the criminal is taken as a scape-goat for out letting the outraged feelings created by the offence (West Bengal Human Rights Commission, 1999). However, the penologists are against this form of expiatory punishment. In „ The Universal Declaration of Human Rights“, Article 5 it is stated that no one shall be subjected to torture or cruelty or inhuman treatment of punishment. The Universal Covenant on Civil and Political Rights has mentioned in Article 6 that: (I) No one shall be deprived of his life arbitrarily (II) Death sentence is to be abolished or if allowed should be restricted to some serious crimes (III) There shall be no genocide (IV) There shall be right to seek pardon (V) There shall be no death sentence on persons below 18 years or on pregnant woman (International Covenant on Civil and Political Rights, 1966).

Today's society views expiatory sentences as an act of brutality because they are frequently an expression of deep internal unhappiness and are frequently disproportionate to the crime they are intended to punish. As a result, there is a likelihood that the proportion of punishment meted out to an offence is irrational.

6.16 Deterrence

It is commonly stated that punishment has a deterrent effect on people other than the offenders, and it is stated that the deterrent aspect of punishment over the non-offenders is greater than that of the offenders. It is said that the deterrent aspect of punishment over the non-offenders is so great that those who observe the offenses are terrified to commit the offense themselves. Nevertheless, the effectiveness of punishment in terms of preventing future offenses is a measurable variable that is determined by the following six aspects: (I) The social structure and prevailing norms of the society (II) The specific demographic of the population (III) The type of law that the punishment is intended to uphold (IV) The type of severity of the penalty (V) The degree of certainty of apprehension and punishment (VI) The individual's understanding of the law and its prescribed penalties as well as his perception of the entire situation (Chakrabarti & Kanti, 1999).

6.17 Protection

Most of the philosophy of punishment has been constructed on the premise that one of the main goals of punishment is to protect society from criminal activity. It is believed that once a criminal is imprisoned, they become harmless to society. However, this theory of punishment has been criticised for failing to distinguish between individual impact on punishment, psychic pressure from punishment, and individual reaction to mass treatment (Rajan, 1995).

6.18 Reformation

Modern criminologists who support the reformatory object of punishment contend that crime is a deviation from a social norm and that there are numerous factors responsible for such deviation, since when a crime occurs it occurs due to the culmination of variety of various factors. Therefore, the question is, who the offender is and what are his offending phenomena (Criminal Justice India Series, 2001).

The Indian Government designated 1971 as "Probation Year" against the backdrop of the alarming rise in crime, especially among teenagers and ideological lawbreakers. Reformation and social rehabilitation of criminals are the two important aspects concerning the objectives of punishment in criminal justice administration today. These two objectives can best be fulfilled if we successfully try the system of probation and parole in criminal justice administration.

The great truth that motivates the probation system is that if a criminal is not born but made, and made by socio-economic circumstances, then it is the duty of the society to treat the individual offender to wean him away from the criminal path. "All persons are born equal and no man is born a criminal" is the spiritual principle that probation in the proper functioning of Criminal Justice Administration in India is based on (Singh, 2020).

6.19 Probation and Parole functioning in criminal justice

Correctional services like Probation and Parole in reality is a compromise between the twin objectives of punishment- the protection of the community and the rehabilitation of the criminal. The success of the scheme lies in the achievement of fulfilling these two social objectives. Of course, an offender can be corrected into a normal citizen only if he co-operates in the procedure. So, the active and willing cooperation of the offender has to be enlisted by the agencies in charge of the Probation system, viz- the Court, the Probation Officer and the social organization which may sponsor his case (Mandelbaum & David, 1998). The vigilant watch over the offender's behaviour during the period of Probation thus become important and also his understanding submission to it. For effectiveness, the application of probation and the follow up, demand the probation officer's activist involvement. The major function that the Probation Officer undertakes include: (I) Making preliminary investigation (II) Making post-conviction supervision (III) Making friendly behaviour and kind disposition must win cooperation of the delinquent's companions, family and social organization.

The main benefit of being released on probation as opposed to being released from prison is that the stigma associated with the crime is no longer present, which is guaranteed by (Section 12 of the Probation of Offenders Act, 1958). As a result, a person released on probation does not face disqualification when it comes to running for office or finding employment in the public or private sector.

6.20 Probation and Parole's efficacy as a better option than prison for prisoners' social rehabilitation

Since almost every nation in the world is anxious to secure the redemption and rehabilitation of those who, by committing less serious offences, have temporarily strayed from the normal walks of social life, the problem of social rehabilitation of prisoners is growing in scope as time goes on.

6.21 Parole

Parole is a type of conditional release that is given to inmates after serving a portion of their sentences; the conditional release involves a service that includes the control, assistance, and guidance the offenders require as they serve the remaining portion of their sentences in the free community (Chakrabarti & Kanti, 1999).

Like probation, parole should include treatment in the form of supervision, guidance, and assistance; however, unlike probation, where the suspension of the sentence is made at the court level without the offender having served any time in prison, parole is only granted by an executive board or the institution itself after a prisoner has served some time in solitary confinement (Rajan, 1995).

6.22 Care of released prisoners after release

After-care of released prisoners is one of the most efficient ways to ease the financial and family burden of the prisoners by offering vocational training to create employment opportunities for the prisoner and their families (Rajan, 1995). This constitutes one of the most crucial integral parts of correctional programmes for prisoners, as an offender must immediately deal with a lot of social and personal problems, such as loss of housing, unemployment, and drug and alcohol abuse.

Some sporadic efforts to provide a portion of the service to the released offenders have, however, been made in some of the states. However, the actual after-care work that has been done so far in this country, falls far from the short of the requirements. Lack of funds, ignorance of the psychological and economic basis of crimes, and general underfunding are the main reasons for this.

As per the National Crime Records Bureau in their yearly Prison statistical report from the year 2005 to 2022 for the state of Madhya Pradesh the following number of prisoners of were release on parole and absconded and few were re-arrested.

Year	Released on Parole	Number of Parole Prisoners Absconded	No. of Parole Absconded Prisoner re-arrested
------	--------------------	--------------------------------------	--

2022	6552	25	16
2021	5961	60	19
2020	6137	11	4
2019	3663	11	2
2018	4026	9	5
2017	4145	12	0
2016	4186	9	6
2015	5340	12	7
2014	4481	18	9
2013	4262	7	2
2012	7303	4	0
2011	1998	14	3
2010	3413	11	4
2009	2996	10	6
2008	1647	15	5
2007	1213	39	7
2006	1761	69	16
2005	732	44	7

Table 3: National Crime Records Bureau in their yearly Prison statistical report from the year 2005 to 2022 for the state of Madhya Pradesh the following number of prisoners of were release on parole and absconded and few were re-arrested.

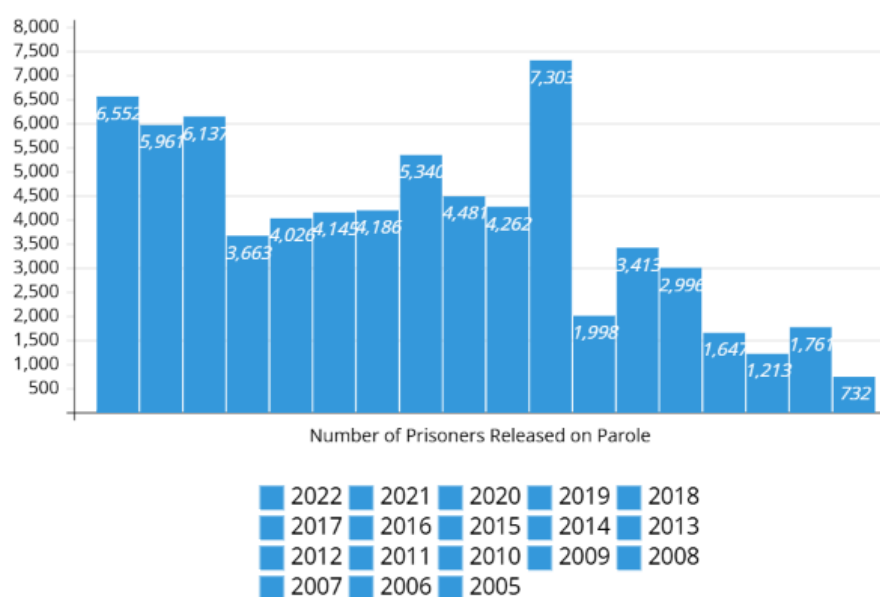


Figure: 1: Number of Prisoners released on Parole

As per the records considering the release of prisoners for the grant of parole and from the year 2005 to 2022 it can be inferred from the data that many prisoners are applying for parole and referring to the judgment pronounced by the High Courts in this regard not many cases are filed before the High Court by the prisoners this may be because of lack of legal awareness. In the judgements as analysed above the court have remarked the non-application of mind by the authorities at the time of rejecting the application of parole.

The above data is available from the NCRB portal but while browsing the Madhya Pradesh Jail official website for the purpose of this study till today also no data is published by the jail authorities in this regard.

6.23 Procedure for grant of parole/leave

The right of the prisoner for parole/leave is not absolute but the same is being exercised by the quasi-judiciously by the executive body. The procedure for grant of parole/leave in the state of Madhya Pradesh is as under:

Firstly, application for grant of leave is to be forwarded to the Superintendent of Jail and the Superintendent of Jail will inquire whether the prisoner is eligible for parole/leave or not by considering the nature of the offence for which the prisoner is convicted and his conduct in the jail and makes a report for the same and the same is to be forwarded to the

District Magistrate where prisoner was residing before conviction. (Rule 5, M.P. Prisoner Leave Rules, 1989).

Before the amendment to Rule 15 of the M.P. Prisoner Leave Rules, 1989 which provides for the authority competent to sanction emergency leaves the Superintendent of Jail was competent to grant emergency leave to prisoner if the prisoner has availed of leave previously. (Notification S.N. F-3-2009, M.P).

After the application from the superintendent of jail is forwarded to the District Magistrate it is District Magistrate who has to decide such application his decision shall be final on such application.

During the visits to jail authorities for the collection of data the researcher had the opportunity to interact with Superintendent of Jail's and other prison personnel. During the interaction with authorities in the form of an interview the researcher comes to a finding that the role of District Magistrate for the grant of parole/leave is of immense importance as he is first authority who is empowered by law for deciding for the grant of parole and he is to take responsibility for his decision. During the interaction the important factor which comes into light is the delay of proceedings while deciding the application for parole. Many times, regular reminders are being forwarded from the Superintendent of Jail to the District Magistrate for disposing of the parole application of the prisoner which many times defeat the purpose of the reformatory theory for which the parole is granted. Further the researcher during the interview comes to a finding that majorly the entire proceedings are being carried out a mechanical manner and the prisoner who is socially, economically, or politically strong gets the disposal of the application within reasonable time for his application for parole. The prisoner's family members have to follow up for the decision of the application of parole.

The District Magistrate while deciding the application of parole/leave have to take following factors into considerations.

- Recommendation/Report of the Superintendent of jail
- Consultation/recommendation from the District Superintendent of Police on the advisability of granting the leave.
- The opinion of the Gram Panchayat/parshad/Corporator of the Village/District.
- Public safety and security.
- Grant of leave to prisoner undesirable in public interest.

➤ Security from Prisoner.

It is the responsibility of the District Magistrate for his action of the grant of parole. He should use his discretion for the exercise of this function. Only if he is satisfied then only, he should grant parole to the prisoner. As it is the responsibility of the District Magistrate so he is also strict in the exercise of his discretion for the grant of parole. (Ratan Das Vs. State of Chhattisgarh and Ors., 2021)

If the District Magistrate rejects the application the same is to be informed to the prisoner who may appeal to the Director General of Prisons and Correctional Services within 30 days. (Rule 6, M.P. Prisoner Leave Rules, 1989).

In the exercise of the quasi-judicial function many factors are to be considered by the executive in this case the District Magistrate and in appeal the Director General of Prisons and Correctional Services but the role of authorities and individuals such as Superintendent of Police, Station Police Officer, Gram Panchayat/Parshad/Corporator cannot be ignored. Based upon such findings a prisoner application for parole/leave is decided.

6.24 Judicial approach for M.P./C.G Prisoners Leave Rules, 1989

In this research it is already highlighted that the grant of parole/leave is as an executive function and the first application for such leave is before the District Magistrate and then appeal can be made to the Director General of Prisons and Correctional Services. But as grant of such leave to the prisoner is to be balanced with the right of a prisoner who is convicted of an offence or offences with the rights of the individuals in the society. The High Court and the Supreme Court have to be very judicious while deciding a petition against the order passed by the executive. As there may be chances of recidivism and also the decision of the executive authority be arbitrary.

In the case of Inder Singh and Ors. vs. The State (Delhi Administration) the Supreme Court laid emphasis on rehabilitative process and considered the opinion of the U.S. District court in the case of McCray v State McCray v. State, 10 Criminal Reprtr 2132 which observed as that “total rehabilitative effort was missing in a prison system and ordered that treatment be accelerated. Budgetary limitations imposed by the State

were no excuse. Neither was noncooperative prisoners. After all, they need rehabilitation the most.” (McCray v State McCray v. State, 1971)

The Court emphasized on rehabilitation and quoted a passage with the approval of Lewis Moore as under:

“You cannot rehabilitate a man through brutality and disrespect. Regardless of the crime a man may commit, he still is a human being and has feeling. And the main reason most inmates in prison today disrespect their keepers, is because they themselves (the inmates) are disrespected and are not treated like human beings. Does this type of treatment bring about respect and rehabilitation? No, It only instil hostility and causes alienation toward the prison officials from the inmate or inmates involved.

If you treat a man like an animal, then you must expect him to act like one. For every action, there is a reaction. This is only human nature. And in order for an inmate to act like a human being, you must treat him as such. Treating him like an animal will only get negative results from him” (Inder Singh and Ors. vs. The State, 1978)

In the case of Jeevan Singh Verma v State of Madhya Pradesh MANU/MP/0570/2001, the High Court exercising its extra ordinary jurisdiction under Article 226 and Article 227 while deciding a petition observed that refusal to grant the prisoner temporary leave/parole on spacious plea that he will involve himself in similar crimes would be against curative measure. The Court found the order of the District Magistrate rejection an application of parole who was convicted under the Narcotic Drugs and Psychotropic Substances Act, 1985 was eligible for temporarily leave/parole on the report of the Superintendent of Police, Narsinghpur without verifying the antecedents of the petitioner and applying his mind. (Jeevan Singh Verma v State of Madhya Pradesh, 2001)

The deprivation of one’s liberty is to be accompanied by curative strategy and human dignity. (Inder Singh and Ors. vs. The State, 1978)

District Magistrate while considering the application for grant of parole/temporary leave, should take into consideration the conditions as enumerated in Rule 4 and 6 of the M.P./C.G. Prison Leave Rules, 1989 and thereafter, based upon the material on record, he should form an opinion to grant parole or not and strictly adhere to the procedure laid down in the rules. But while deciding the application the District Magistrate should apply his mind and should not function in a mechanical manner. The District Magistrate should

look whether the prisoner is entitled to be released on parole or not as not all prisoners are appropriate for grant of parole. Obviously, society must isolate from those who show patterns of recidivism. The state though ought to encourage those offenders who reflects a commitment to reconcile with society and their behaviour demonstrates them to live as law abiding citizens. Thus, parole program should be used as a tool to shape such adjustments balancing with the social and public interest at large. (Ratan Das Vs. State of Chhattisgarh and Ors., 2021)

In the case of Anirudhda Yadav v State of Chhattisgarh, Through the Secretary, Home (Jail) Department and Others the grant of leave for parole was denied by the District Magistrate as the surety were of different village though jail authorities have recommended for his grant of parole. Allowing the petition and setting aside the order of the District Magistrate the court observed that rejecting the application for parole is not as per the rules of 1989 and would be defeat the purpose of the rehabilitation. (Anirudhda Yadav v State of Chhattisgarh, 2022)

The object of granting parole is to make necessary efforts to rehabilitate a convict prisoner in the main stream of society based on “Karuna” (compassion) as well as on human consideration and the leave to grant parole should only be denied in cases where the District Magistrate has cogent reasons that the release of such prisoner would be detriment for public safety.

In the case of Gori Shankar Vs. State of M.P. and Ors the High Court while the while deciding for the release of a convict of sentence of life before 14 years of imprisonment discussed the observations of the court in the case of Maru Ram, Bhiwana Ram etc. vs. Union of India AIR 1980 SC 2147 wherein Section 433-A (now 475 BNSS) does not forbid parole or other release within the 14 years span. The court also held the view that penal humanitarianism, and rehabilitative desideratum warrant liberal paroles, subject to security safeguards, and other humanizing strategies for inmates so that the dignity and worth of the human person are not desecrated by making mass jails anthropoid zoos. Human rights awareness must infuse institutional reform and search for alternatives. (Gori Shankar Vs. State of M.P, 1966)

In the case of Shobha Bai v. State of M.P. 2012 SCC OnLine MP 846 a writ petition was filed to issue appropriate orders for deciding the pending application of parole for the husband of the petitioner who was convicted under section 302 of Indian Penal Code for

the marriage of his son. In the present case the state did not object for deciding the application of parole in accordance with laws and requested for a reasonable time from the court. The single bench of the High Court directed the state to decide the pending application as expeditiously as possible and preferably within a week. Parole or temporary release of the prisoner is granted on humanitarian and other grounds. Parole is meant for fulfilment of the purpose of imprisonment which is not deterrent, retributive but for rehabilitation of the convicted prisoner. As in the present case time of the application by the state non disposal within a time frame may have lead to defeating the purpose of temporary release of the prisoner. (Shobha Bai v. State of M.P, 2012)

In *Vikas Bharti v. State of M.P.* 2019 SCC OnLine MP 2941 the petitioner challenged the order of the Director General of Prisons who had rejected the application of parole of the petitioner who was convicted under section 376(2) (g) and 506 (b) of Indian Penal Code. The petitioner already approached the High Court earlier wherein vide order dated 3rd January, 2018 had directed the respondents to decide the application as per M.P Prisoner Leave Rules, 1989. The contention raised by the petitioner is that order passed by the Director General of Prisons is a non-speaking order. The single judge bench of the High Court while deciding the petition perused the order rejecting the application of parole and while setting aside the said order had observed that no reason was whatsoever had been assigned while rejecting the petitioner's application of parole. The order suffers from the voice of non-application of mind and being a cryptic order cannot be sustained. The court while setting aside the order directed the respondents to decide the application of parole as per law and if the application of the respondents is rejected than to pass a reasoned speaking order duly communicated to the respondents. The case reflects the quasi-judicial function exercised by the administrative authorities is mechanical and without application of mind. (*Vikas Bharti v. State of M.P.*, 2019)

In the case of *Jeevan Singh Verma Vs. State of M.P. and Ors* MANU/MP/0570/2001, the High Court of Madhya Pradesh while exercising the extra ordinary jurisdiction under Article 226 & Article 227 of Constitution of India has directed that the respondents to shall extend the privilege of temporary release/parole to the petitioner. The High Court relying on the quote from a passage from Lewis More which was quoted in the judgment of *Inder Singh and Anr. v. The State (Delhi Administration)* 1978 SCC 564 which emphasized on rehabilitation which read as under

"You cannot rehabilitate a man through brutality and disrespect. Regardless of the crime a man may commit, he still is a human being and has feelings. And the main reason most inmates in prison today disrespect their keepers, is because they themselves (the inmates) are disrespected and are not treated like human beings. I myself have witnessed brutal attacks upon inmates and have suffered a few myself, if he becomes violent. But many a time this restraining has turned into a brutal beating. Does this type of treatment bring about respect and rehabilitation? No. It only instills hostility and causes alienation toward the prison officials from the inmate or inmates involved. If you treat a man like an animal, then you must expect him to act like one. For every action, there is reaction. This is only human nature. And in order for an inmate to act like a human being, you must treat him as such. Treating him like an animal will only get negative results from him." (Inder Singh and Anr. v. The State, 1978)

In this case the District Magistrate concurred with the opinion of the Superintendent of Police and had rejected the petitioner's application for parole. The reason for rejecting the application was ascribed as that the petitioner is likely to commit offence of similar nature without any foundation. It further it was not reflected in the order that the convict had any criminal antecedent or has been a drug peddler nor was a member of any organized group involved in the transaction. The court considered the order of the rejecting parole to petitioner as vulnerable and directed his release on the ground as per the M.P. Prisoners Leave Rules, 1989. (Jeevan Singh Verma Vs. State of M.P. and Ors, 2001)

In the case of Om Prakash v State of Madhya Pradesh 2003(3) AIC275 the petitioner was in jail for offences under the NDPS Act and was sentenced for 10 years rigorous imprisonment. The petitioner had applied for parole and had the authorities had rejected the application for parole and his application was rejected and he filed a writ petition before the High Court in which the High Court directed to the authorities to consider his application as per M.P. Prisoners Leave Rules of 1989 within a period of 30 days. As per the order of the High Court the concerned authorities rejected his application for parole on the ground that the he is person with criminal background with an adverse opinion of the Superintendent of Police that if he released on parole he may abscond and the application of the petitioner was rejected.

The High Court while deciding this writ petition made the following observations:

- That the concerned authorities has not considered the previous order of this court and has not followed the M.P. Prisoners Leave Rules of 1989.
- The concerned authority herein the Additional Collector has himself filed an affidavit stating that he had wrongly rejected the application and tendered apology.
- In the light of directions of the High Court the same has be decided with reasoned order.

The High Court while perusing the documents filed by the respondents observed that there is nothing on record which is detrimental to the public interest. Neither any material has been placed nor any reasons have been assigned to record the finding about his apprehension for absconding or how he is a person of criminal background. On the contrary it has been contended in the petition that he is in jail for the last five years, against the total sentence of ten years and his mother who is aged about 82 years is seriously ill and his father-in-law has also expired. The High Court further held which read as under

“this kind of practice of the officers is to be deprecated that they are not properly considering the orders passed by the High Court and not following the directions given in the matter in true spirit. It is expected that in future the officers will take care in the matters particularly in compliance of the Court orders.” (Om Prakash v State of Madhya Pradesh, 2003)

As reported in Dainik Bhaskar in Parole resumes after 8 years, 150 rapists serving life sentence also free. On the one hand, the Madhya Pradesh government is going to formulate a policy to keep the criminals who torture the terrorists, girls, gangrape women in jail till the last breath, on the other hand, the government is bypassing one of its own policies and taking such predators out of jail on parole. (Dainik Bhaskar, 2022)

As per the tribune the blog titled “Parole for convicts, prison for protesters” by Justice Madan B Lokur Every convict is entitled to a parole for 90 days in a year, and Ram Rahim has availed of this benefit every year. But how many convicts are aware of this provision? (The Tribune, 2024)

Madhya Pradesh notorious for helping prisoners escape via parole. Influence by politicians and moneybags have made a mockery of laws. Those who can't secure a bail get a virtual release from the government. Some jail officials have been known to oppose

selective reading of laws to grant parole and probation. Even the courts have, in the past, expressed their suspicion on the fairness of the probation process. A division bench of a high court once observed that the decision-making process of the competent authority that grants parole and probation is suspect. (India Today, 2007)

The escape of Bitti Mahanti-the son of a senior IPS officer who was convicted of raping a German woman in Rajasthan-when he was released on parole has led to widespread outrage. However, for convicts in Madhya Pradesh, getting a parole and vanishing into thin air are quite normal. Till August 2006, 71 out of a total of 153 convicts released on parole from the eight central jails in the state had gone missing. The gravity of the situation has made even the state High Court sit up and take notice. The court summoned R.K. Diwakar, IG Prisons and directed the Madhya Pradesh Jail Department to check whether the person had been denied bail or not before his parole application was approved. (India Today, 2007)

6.25 Misuse of parole

Sanjay Dutt was convicted and sentenced to jail for five years in the Mumbai serial blasts in 1993. Of the 1825 days had to spent in jail he spent 1445 days in jail. He was given remission for 60 days for good conduct and 156 leave in jail which got deducted from his term in jail. It has been criticized that parole and furloughs that are not normally granted to vast majority of prisoners was being repeatedly granted to Sanjay Dutt. It was reported in December 2014 he was allowed on temporary leave for 14 days for the new year with his family but he had to return hastily to the jail after public atrocity. (Hindustan Times 2016). Also, the Home Ministry had sought a report from the Maharashtra government over the reported parole given to him who was imprisoned under Arms Act for 1993 Mumbai serial blasts case. (The Economic Times, 2014)

As highlighted in this research, there are instances of arbitrariness on the part of the executive authority for the grant of parole on insufficient grounds but the aspect of misuse of parole also cannot be ignored. Not only human right of the prisoner is to be balanced with social security but justice should not be done to the victim but it is also seen to be done.

Sidhartha Vashisht @ Manu Sharma vs State (NCT Of Delhi) AIR 2010 SUPREME COURT 2352

In this famous case in which the son of a political family Manu Sharma murdered Jessica in 1999 and was sentenced to life imprisonment by the Delhi High Court and the same was upheld by the Supreme Court. In 2009 he was granted parole for one month later which was extended to one more month on the grounds of religious rites of grand mother, ailing mother and take care of family business. He had to return to jail as he was found at a Delhi pub and got media flash. It was found that his grand mother passed before and his mother was seen addressing a press conference in Delhi. (Amit Chaturvedi, 2020)

Later also Manu Sharma had been granted parole irrespective of that he had violated the conditions imposed on his earlier parole.

RAM RAHIM

In the case of Ram Rahim who was convicted and sentenced for a period of 10 years in 2017 by the Special Judge, CBI, Panchkula under sections 376 and 506 of the Indian Penal Code against two women. And also, in 2019 and 2021 for life imprisonment for offences under 302 and 120-B of Indian Penal Code by the CBI court.

A division bench of Punjab & Haryana High Court said, "We would like the State of Haryana to furnish an affidavit as to how many persons having such criminal antecedents and sentenced in three cases have been granted this benefit. Let a necessary affidavit be filed before the next date of hearing. In the meantime, the said respondent (Ram Rahim) may surrender on the date fixed 10.03.2024 and thereafter the State authorities shall not consider his case for grant or further parole till further orders without the permission of this Court."

The court further observed that, "The same makes interesting reading keeping in view the background and the antecedents of Ram Rahim who has conviction in three cases against him has been released for 91 days each in the years 2022 and 2023."

The Supreme Court upholding the sentence of High Court for death penalty in which the prisoner was on parole and committed a pre-planned of his second wife and child and also attempted to commit suicide. The High Court highlighted the following

circumstances considering the case to rarest of rare case which the recidivist performed during his parole.

“1. The accused was already convicted to life imprisonment for murder of his first wife Malakawwa. He committed the present murders while he was out on parole.

2. That the murder was the result of pre-planning on his part is evident from the fact that the murder weapon is a jambia, a hunting knife used for attack, not ordinarily available in a house.

3. Even if the accused had some reason to suspect the fidelity of his wife, which motivated him to murder her, there could have been absolutely no reason for killing the defenceless child of 1-1/2 years of age.

4. The murders were committed when the victims were helpless and asleep.

5. No extenuating circumstances in favour of the accused were either pleaded or proved.”
(Saibanna v. State of Karnataka, 2005)

In the case of Krishan v. State of Haryana MANU/SC/0675/1997, the prisoner committed another murder while he was released on parole but the Supreme Court commute the sentence of death imposed upon the Prisoner for his conviction under Section 302 IPC to imprisonment for life as other factors relating to the commission of the crime including motive, manner and magnitude have also to be taken into consideration. (Krishan v. State of Haryana, 1997)

As per the information available on the National Prison Information Portal the record for the following states with respect to the parole jumpers and escapee prisoners maintained by the respective state prison department. While observing the data the researcher finds that many of the parole jumpers to whom parole was granted for different reasons such as mothers serious sickness, wife's sickness, emergency parole etc have overstayed for more than 6000 days and surrendered or arrested after a very long period. Taking the example of SundarMoorthy, Central Prison, Madurai, Tamil Nadu who was on emergency leave and got temporary leave/parole on 27-11-1995 surrendered on 08-06-2023 with a overstay period of 10473 days. (National Prison Information Portal)

	STATE	Total No of Records - Parole Jumpers
1.	Andhra Pradesh	11
2.	Assam	3
3.	Bihar	2
4.	Chandigarh	22
5.	Chhattisgarh	46
6.	Delhi	53
7.	Haryana	137
8.	Karnataka	11
9.	Madhya Pradesh	137
10.	Punjab	226
11.	Uttar Pradesh	31
12.	West Bengal	48
13.	Rajasthan	40
14.	Telangana	19
15.	Tamil Nadu	43

Table 4: Record for Parole Jumpers

The Delhi police also had to form a special team for to re-arrest parole jumpers who had not returned to prisons on respective dates for the prevention of further crimes by the prisoner. The police were able to re-arrest some prisoners with the help of the informers. (Prawesh Lama, 2021)

Similar examples such as of SundarMoorthy are found in jails of different states.

6.26 Analysis of data

The researcher in this study has collected data in the form of questionnaire from 322 respondents from different professions which to include students, individuals, academicians, advocates, researchers and judges across different states for analysing the general perspective among individuals for the law relating to parole. Though size of the data is small but a general inference may be drawn for the response as the data is collected from respondents above the age of 18 years. From 322 respondents 230 respondents are above the age of 18 and below 30 and 92 respondents are above the age of 30. Further amongst 322 respondents 71 are academicians, 56 advocates and 4 judges.

The researcher has also collected specific data of 98 prisoners of 4 jails and 40 prison personnel from the state of Madhya Pradesh.

As it is very difficult to collect data from jail authorities and the State of Madhya Pradesh has 55 districts and the data is being collected from the two largest jails in state of Madhya Pradesh i.e. Bhopal and Jabalpur and from one Central Jail of Narsinghpur and one district Jail of Katni which would help the researcher to draw an inference and come to a finding.

The analysis of the data for the collected data in the form of questionnaire is discussed as under:

6.27 Data analysis respondents from different profession

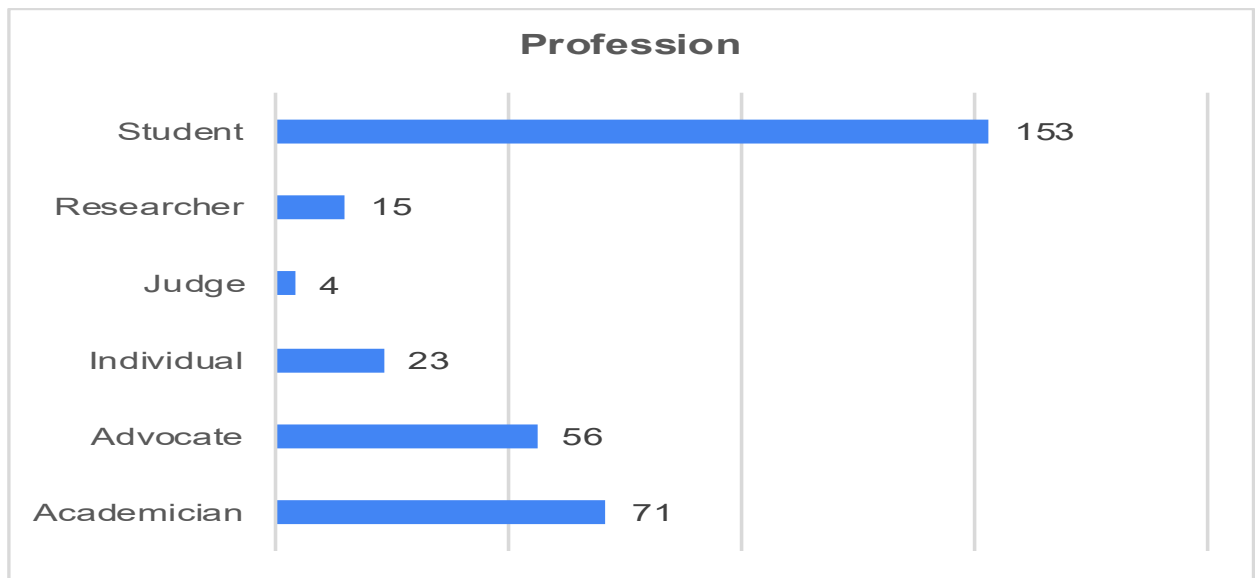


Figure 2: Data analysis respondents from different profession

OBSERVATION

Out of 322 responses collected from various field experts and 153 law students, 15 researchers, 4 judges, 23 individuals, 56 advocates, and 71 academicians from across India participated in a survey pilot study conducted by the researcher to gather their insights upon the parole.

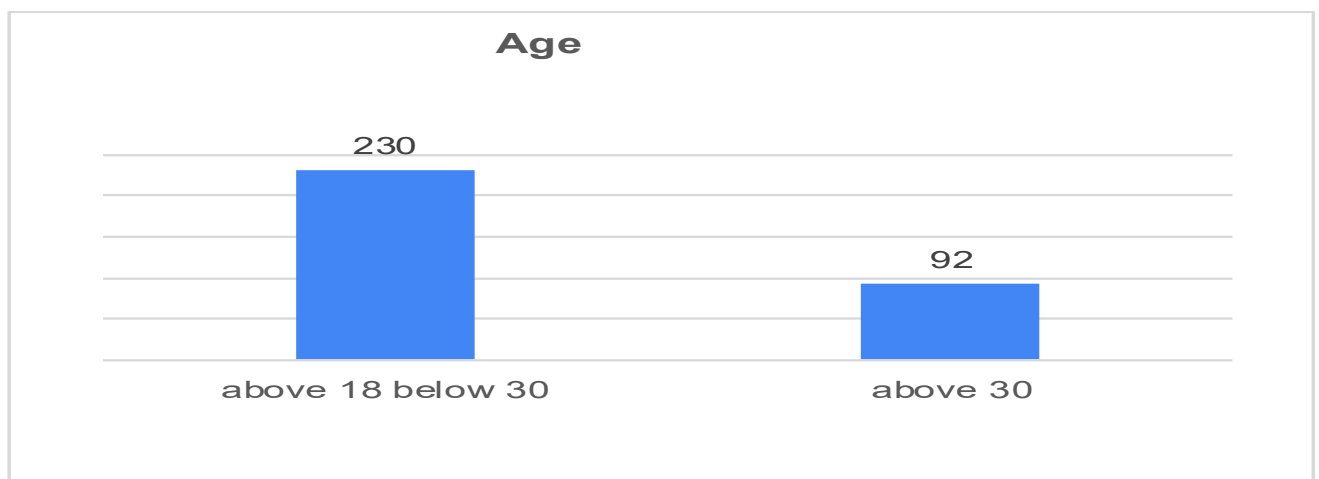


Figure 3: Data analysis respondents from different profession (Age)

Observation

Out of the 322 responses, 230 respondents were between the ages of 18 and 30, while 92 respondents were above 30.

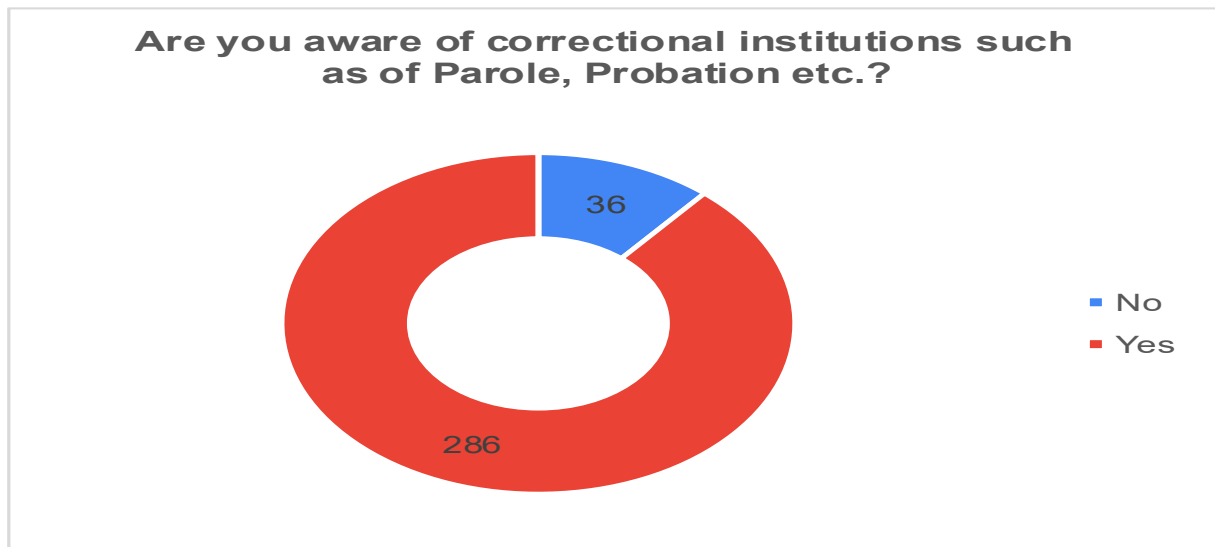


Figure 4: Correctional Institutions

Observation

In response to this question, "Are you aware of correctional institutions such as parole, probation, etc.?" a significant majority of the 322 people surveyed, specifically 286 respondents, indicated that they were familiar with these types of institutions. As the respondents are above the age of 18 years this suggests a high level of awareness regarding correctional practices and rehabilitative measures within the legal system. In contrast, 36 respondents, representing a smaller segment of the survey population, reported that they were not aware of correctional institutions such as parole and probation. This disparity highlights a notable gap in awareness among a minority of individuals concerning the mechanisms designed to manage and rehabilitate offenders within the criminal justice system.

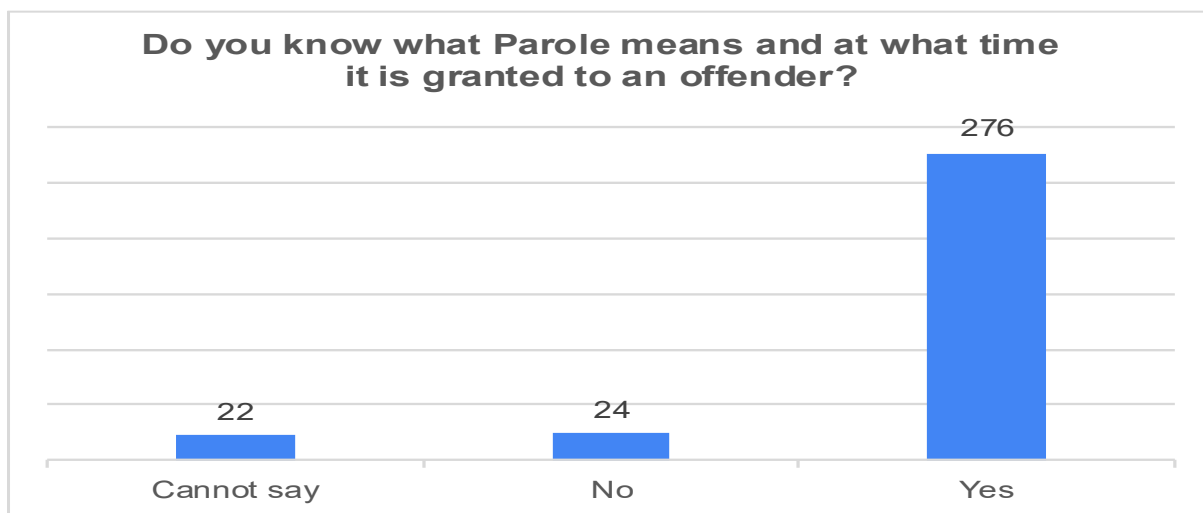


Figure 5: Parole granted to an offender

In response to this question, "Do you know what parole means and at what time it is granted to an offender?" the survey results reveal the following:

Out of 322 respondents, 276 indicated that they are familiar with the concept of parole and understand the circumstances under which it is granted. This indicates a strong gap of the subject among the majority, suggesting that most people are aware that parole involves the conditional release of an inmate before the end of their sentence, based on factors such as good behavior and rehabilitation progress.

Conversely, 24 respondents stated that they do not know what parole means or when it is granted. This indicates a lack of awareness or understanding of this aspect of the criminal justice system among a smaller portion of the survey population.

Additionally, 22 respondents chose the option "cannot say," which implies uncertainty or insufficient knowledge about the concept of parole and its application. This group represents those who might be aware of the term but lack detailed understanding or are unsure about its specific implementation.

Overall, while a significant majority of respondents are knowledgeable about parole, there remains a notable minority who either lack understanding or are uncertain, highlighting areas where further education and information dissemination could be beneficial.

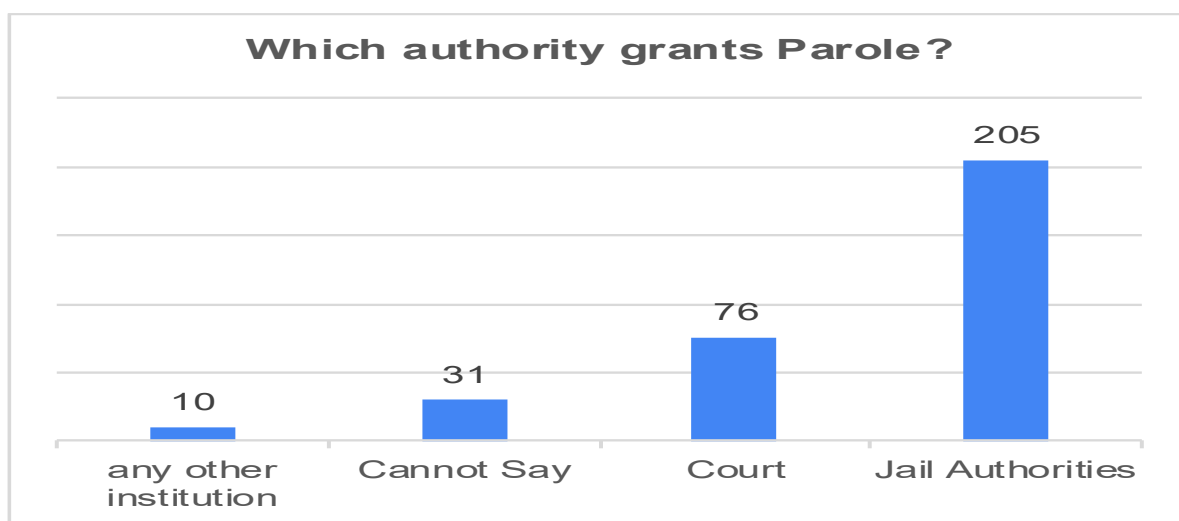


Figure 6: Who grants Parole?

In response to the question, "Who grants parole?" the survey results show the following distribution of opinions:

1. **Jail Authorities:** 205 respondents believe that parole is granted by jail authorities. This indicates a significant majority opinion that those managing the prison or correctional facility are responsible for making decisions about parole.
2. **Court:** 76 respondents think that the court is responsible for granting parole. This reflects an understanding that judicial oversight plays a role in the parole process.
3. **Any Other Institution:** 10 respondents believe that some other institution, not specified, is responsible for granting parole. This suggests some uncertainty or alternative beliefs about the entities involved in the parole process.
4. **Don't Know:** 31 respondents indicated that they do not know who grants parole. This highlights a gap in knowledge among a portion of the survey population regarding the specific authority involved in the parole decision-making process.

Overall, while the majority of respondents attribute the responsibility for granting parole to jail authorities, there is a notable minority who believe it is the role of the court or another unspecified institution, and a small group who are unsure about the process. This distribution points to varying levels of understanding about the roles and responsibilities associated with parole decisions.

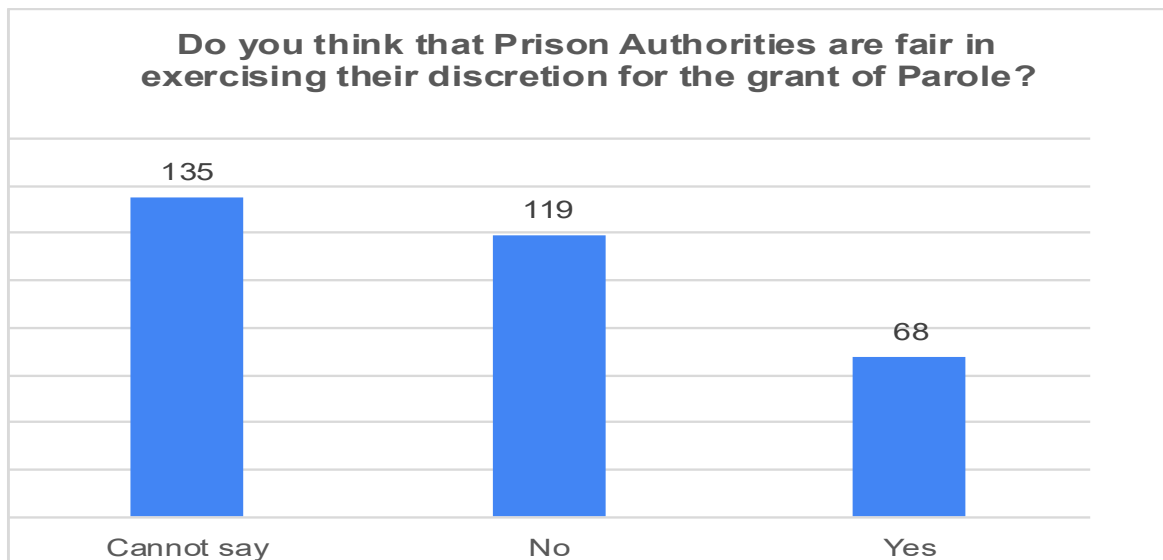


Figure 7: Role of authorities in the exercise of their discretion to grant parole.

In response to the question, "Do you think that prison authorities are fair in exercising their discretion for the grant of parole?" the survey results are as follows:

1. **Yes:** 68 respondents believe that prison authorities are fair in their discretionary decisions regarding the grant of parole. This reflects a level of confidence among this group in the fairness and impartiality of the authorities responsible for parole decisions.
2. **No:** 119 respondents disagree, expressing the view that prison authorities are not fair in their discretionary processes for granting parole. This indicates a significant concern among this segment about potential biases or unfair practices in how parole decisions are made.
3. **Cannot Say:** 135 respondents were unsure or did not have a clear opinion on the fairness of prison authorities in granting parole. This represents a substantial portion of the survey population who either lack sufficient information or have reservations about the fairness of the parole process but do not feel confident enough to make a definitive judgment.

Overall, the responses highlight a divided perspective on the fairness of parole decisions made by prison authorities, with a substantial number of respondents expressing concerns or uncertainty about the process.

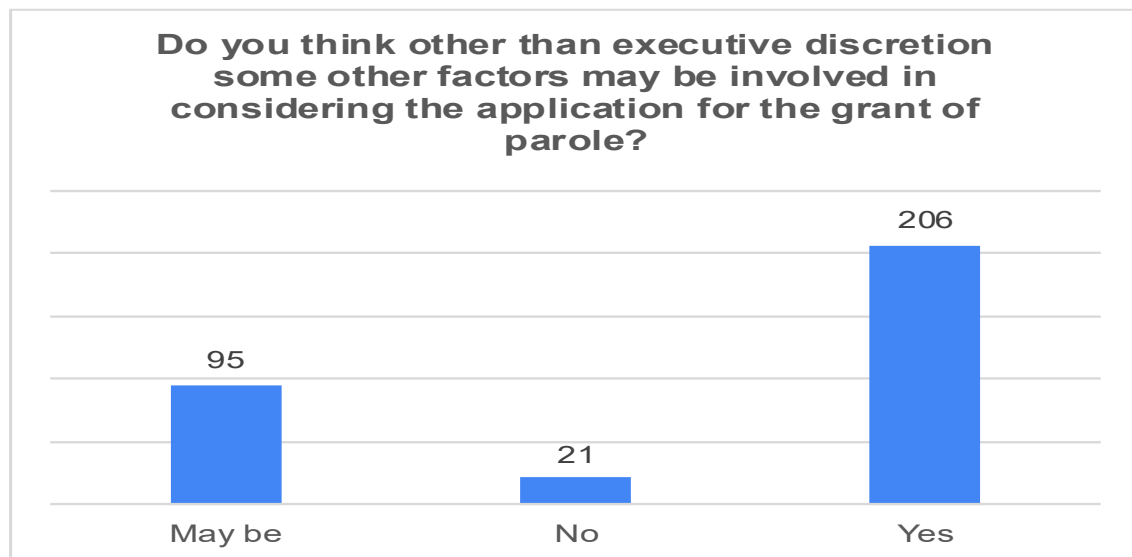


Figure 8: Factors which may be involved in the grant of parole.

In response to the question, "Do you think other than executive discretion, some other factors may be involved in the grant of parole?" the survey results are as follows:

1. **Yes:** 206 respondents believe that factors beyond executive discretion influence the grant of parole. This suggests a recognition that other elements may play a role in the parole decision-making process.
2. **No:** 21 respondents feel that only executive discretion is involved in granting parole. This indicates that a small portion of the survey population believes that the decision is solely based on the authority's discretion without additional influencing factors.
3. **Maybe:** 95 respondents are uncertain or believe that it is possible that other factors may be involved in the grant of parole. This reflects a degree of ambiguity or hesitation in making a definitive judgment about the influence of factors beyond executive discretion.

Overall, the majority opinion supports the idea that parole decisions are influenced by multiple factors in addition to executive discretion, while a smaller group is either certain that only executive discretion is involved or remains unsure.

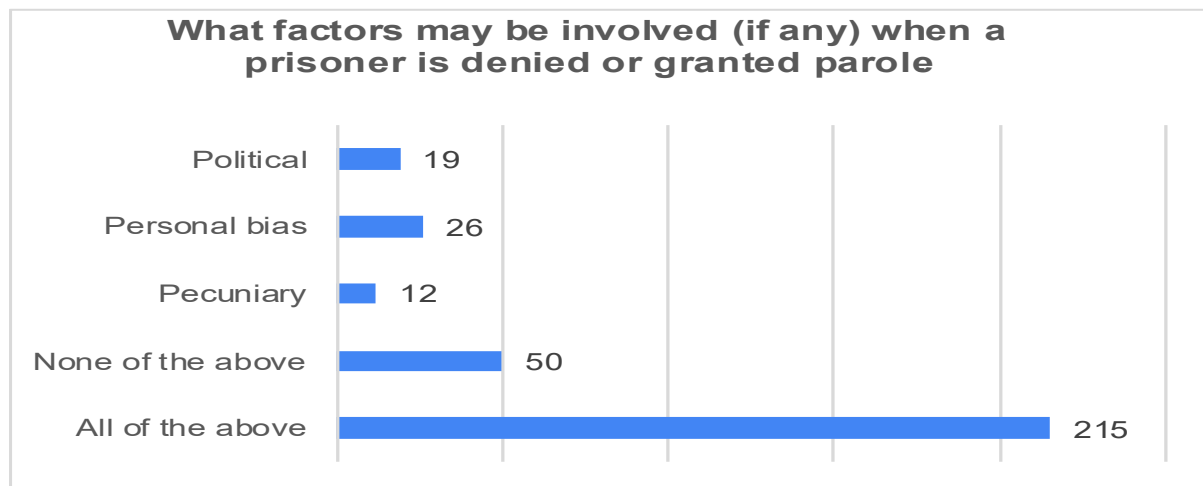


Figure 9: Factors for denied or grant of parole such as political bias, pecuniary etc.

In response to the question about the factors that may be involved when a prisoner is denied or granted parole, the survey results indicate the following:

1. **Pecuniary:** 12 respondents believe that financial considerations or monetary factors may influence parole decisions.
2. **Political:** 19 respondents think that political factors, such as political pressure or the influence of political figures, might affect parole decisions.
3. **Personal Bias:** 26 respondents believe that personal biases of those involved in the parole process could play a role in the decision-making.
4. **All of the Above:** 215 respondents feel that all of the mentioned factors—pecuniary, political, and personal bias—may be involved in the decision to grant or deny parole. This reflects a broad perception that multiple types of influence can affect the fairness of the parole process.

5. **None of the Above:** 50 respondents believe that none of the listed factors influence parole decisions, suggesting that they view the process as based purely on other criteria's.

Overall, the majority of respondents believe that a combination of factors, including pecuniary, political, and personal biases, may impact parole decisions, while a smaller segment views the process as uninfluenced by these factors or not sure about the specifics.

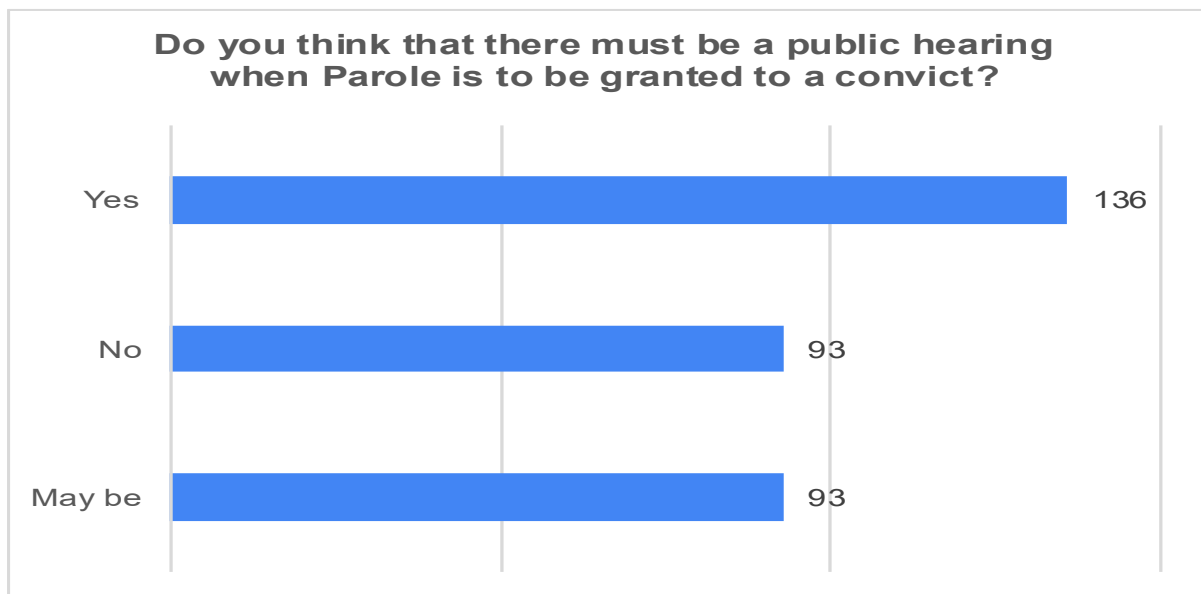


Figure 10: Public hearing in Parole

In response to the question, "Do you think that there must be a public hearing when parole is to be granted to a convict?" the survey results are as follows:

1. **Yes:** 136 respondents believe that a public hearing should be held when granting parole to a convict. This indicates support for transparency and public involvement in the parole process, suggesting that the public should have a say or be informed about such decisions.

2. **No:** 93 respondents are against the idea of a public hearing for parole decisions. This group likely believes that the parole process should remain confidential and managed by the authorities without public involvement.
3. **Maybe:** 93 respondents are uncertain or believe that a public hearing could be beneficial but are not fully convinced. This reflects a neutral stance, indicating that while some might see potential value in public hearings, they may have reservations or need more information.

Overall, the responses show a substantial support for public hearings in parole decisions, balanced by a significant number of individuals who oppose the idea or are unsure about its necessity.

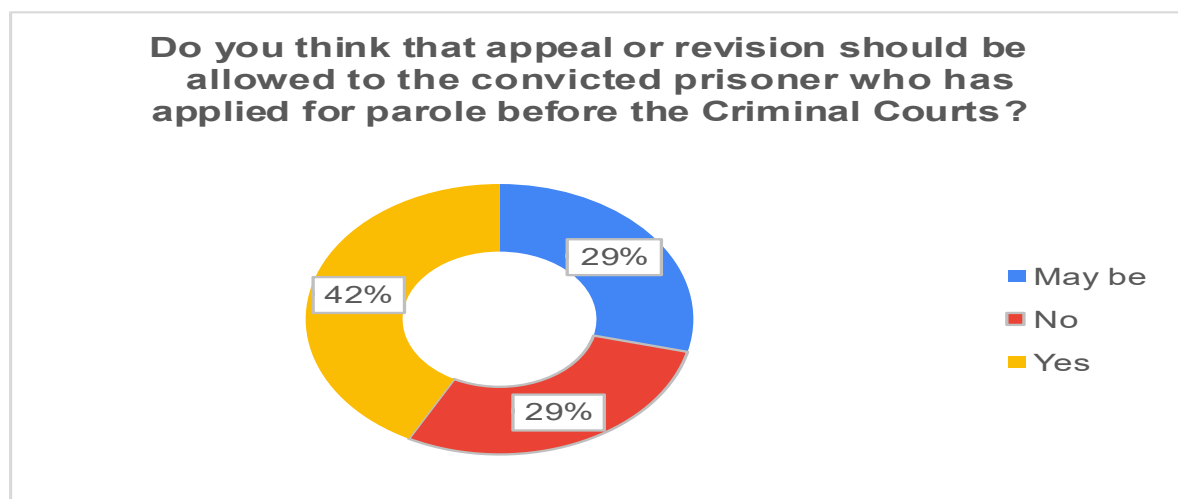


Figure 11: Appeal or Revision before Criminal Courts

In response to the question, "Do you think that appeal or revision should be allowed to the convicted prisoner before District Courts?" the survey results are as follows:

1. **Yes:** 42% of respondents believe that convicted prisoners should have the right to appeal or seek revision before Session Courts. This indicates a significant portion of the survey population supports the idea of providing an additional legal avenue for prisoners to challenge or review their convictions.
2. **No:** 29% of respondents feel that appeals or revisions should not be allowed before Criminal Courts. This group likely believes that the existing legal process

is sufficient and that allowing further appeals could be unnecessary or potentially burdensome.

3. **Maybe:** 29% of respondents are unsure or believe that allowing appeals or revisions might be beneficial but are not fully convinced. This reflects a degree of uncertainty or ambivalence about whether providing this option is advantageous.

Overall, the responses reveal that a considerable number of respondents support the right of convicted prisoners to appeal or seek revisions, while a significant minority oppose it or are uncertain about its merits.

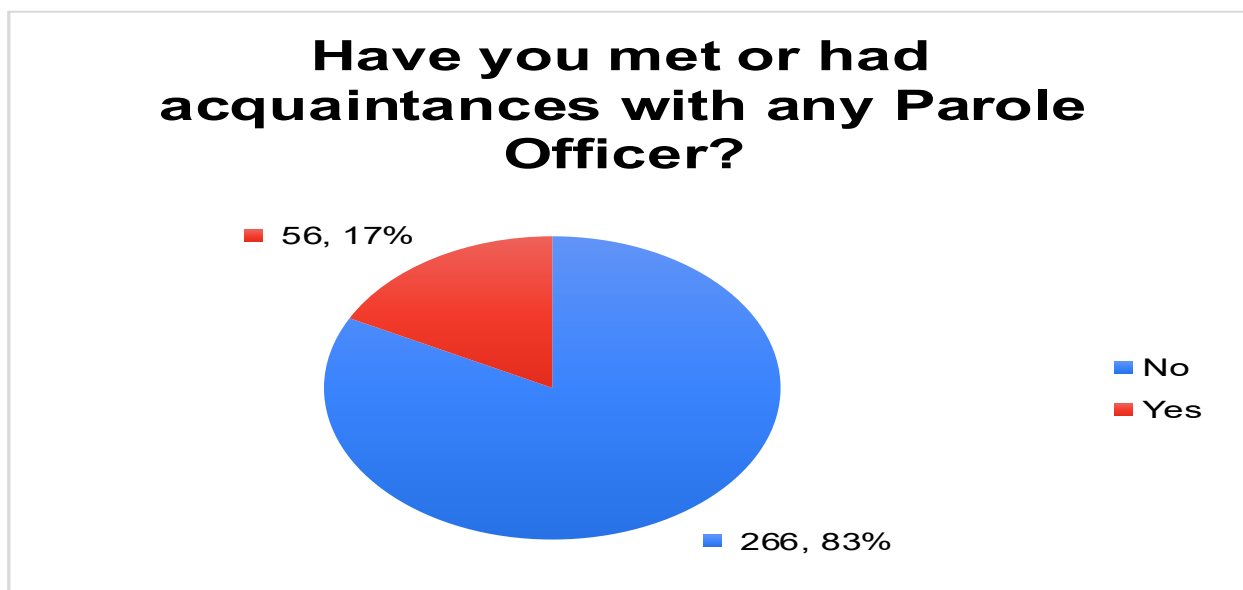


Figure 12: Acquaintances with Parole Officers

In response to the question, "Have you met or had acquaintances with any Parole Officer?" the survey results are as follows:

1. **Yes:** 17% of respondents have met or had acquaintances with a parole officer. This indicates that a relatively small portion of the survey population has personal experience or familiarity with individuals in this role.

2. **No:** 83% of respondents have not met or had acquaintances with a parole officer. This suggests that a significant majority of the respondents do not have personal connections or direct experience with parole officers.

Overall, the data shows that a large majority of respondents lack personal interaction with parole officers, while a smaller segment has had such encounters.

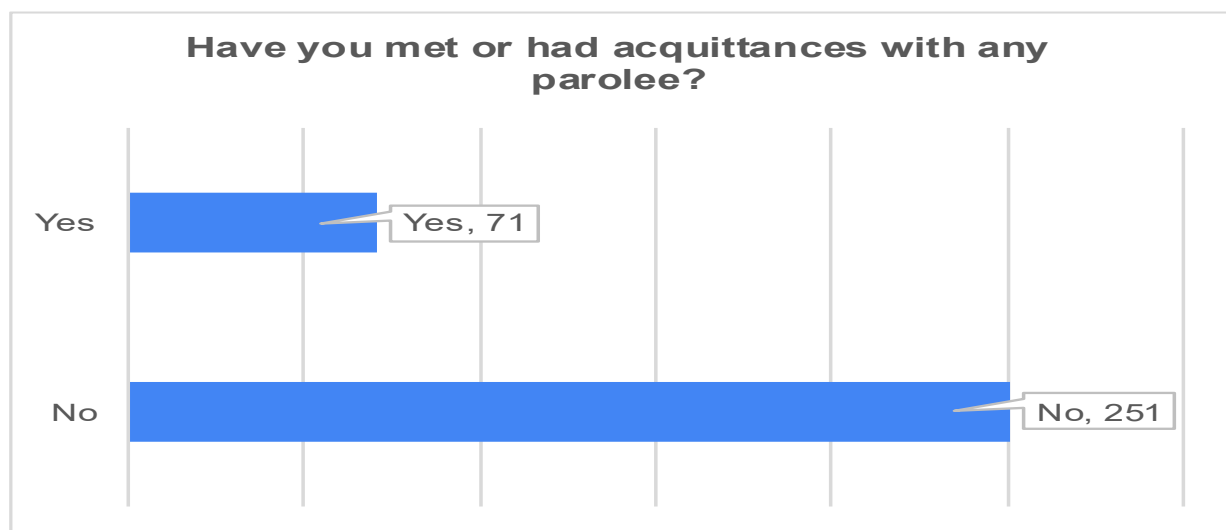


Figure 13: Acquaintances with Parolee

In response to the question, "Have you met or had acquaintances with any parolee?" the survey results are as follows:

1. **Yes:** 71 respondents have met or had acquaintances with a parolee. This indicates that a notable number of respondents have had personal interactions or relationships with individuals who are on parole.
2. **No:** 251 respondents have not met or had acquaintances with a parolee. This represents the majority of the survey population, indicating that most respondents do not have personal experience or familiarity with individuals on parole.

Overall, while a minority of respondents have had direct interactions with parolees, the vast majority have not.

6.28 Data analysis of prisoners

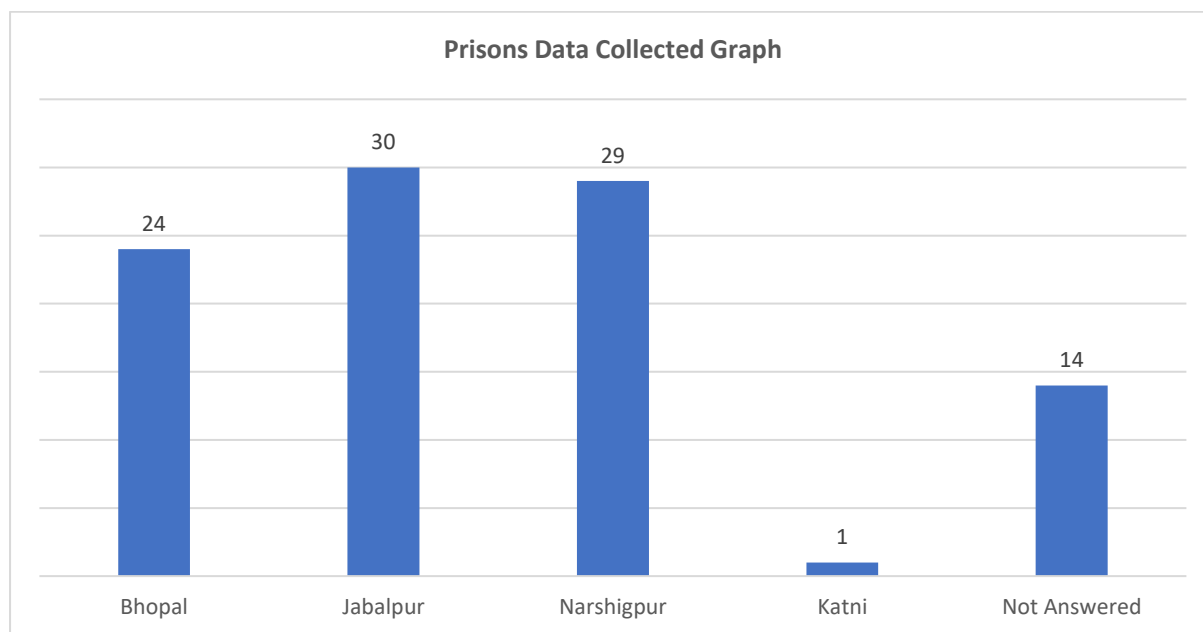


Figure 14: Prisoners Data

The above graph reflects the data of various prisoners who are convicted of offences under different legislations. As the law of parole is only applicable to the prisoners who are convicted of offences and not to undertrial prisoners. The state of Madhya Pradesh has 55 districts and the data is being collected from the two largest jails from the state of Madhya Pradesh and two small jails in which one being a district jail. As the same rule of parole is applicable to the state of Madhya Pradesh, from the data inferences may be drawn which is collected in the form of questionnaire from the respondents. Though collection of data from prison authorities is very difficult but for the research study the researcher has made an honest attempt to visit the above mentioned jails at various occasions for gathering information for the purpose of this study.

The data collected from various prisons is distributed as follows:

1. **Central Jail Bhopal:** Data was collected from 24 individuals. This indicates a moderate level of engagement and response from this facility.

2. **District Jail Katni** : The district of Katni is a small jail with convicted and undertrial prisoners. Data was collected from only 12 individual. But the prisoners in Katni did not mention in the questionnaire but the researcher verified the same with the official seal of Katni Jail and only three prisoners could not be identified from which jail they have filled the questionnaire. This represents a significantly moderate level of participation compared to other jails, suggesting potential challenges in data collection or a smaller population of respondents at this location.
3. **Central Jail Narsinghpur**: Data was collected from 30 individuals. This shows a substantial response rate from this facility, indicating a higher level of engagement or a larger respondent base.
4. **Central Jail Jabalpur**: Data was collected from 30 individuals, similar to Narsinghpur Jail. This reflects a robust response rate and suggests a comparable level of engagement at this location.
5. **Not Answered**: 14 responses did not specify their jail. But 12 individuals were from Katni Jail and only 3 respondents who chose not to disclose their location or whose responses did not provide sufficient information for classification.

Overall, the data collection shows a varied distribution across the different jails, with Narsinghpur and Jabalpur jails contributing the highest number of responses, while Katni Jail being a small jail had a notably moderate response rate. The "Not Answered" category highlights is very less it should not affect the completeness and accuracy of the overall analysis.

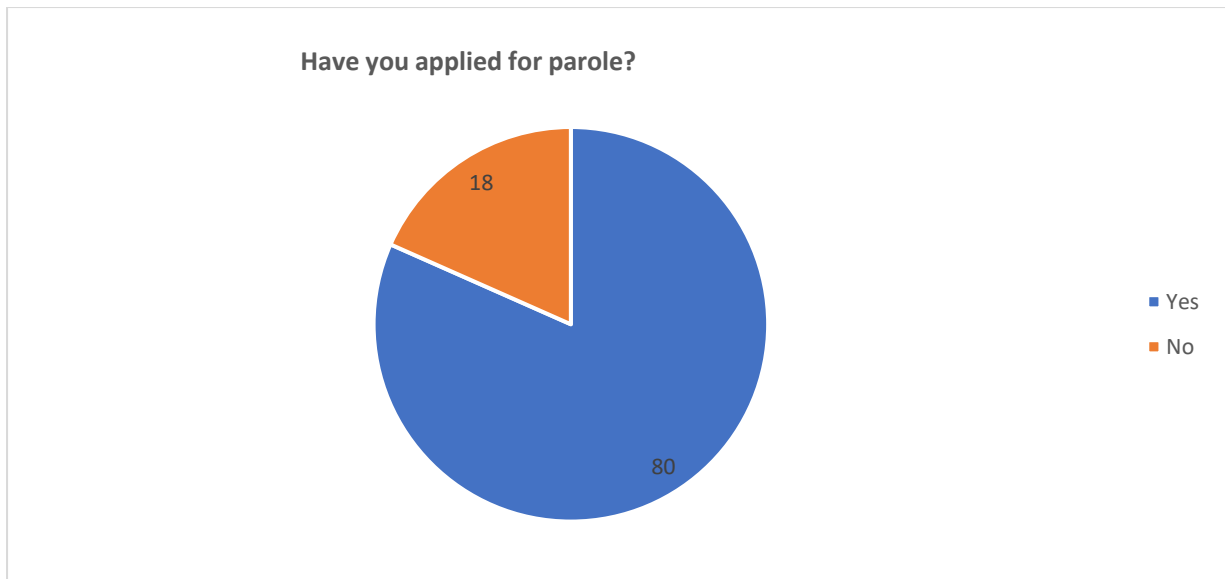


Figure 15: Application for Parole

In response to the question, "Have you applied for parole?" the survey results are as follows:

- **Yes:** 80 respondents have applied for parole. This indicates that a significant number of individuals have sought to be released on parole, reflecting active engagement with the parole process.
- **No:** 18 respondents have not applied for parole. This suggests that a smaller portion of the surveyed individuals either have not pursued parole or do not consider it necessary for their situation.

Overall, the data shows that a majority of respondents have taken steps to apply for parole, while a smaller segment has not. This distribution may provide insights into the level of interest or need for parole among the surveyed population.

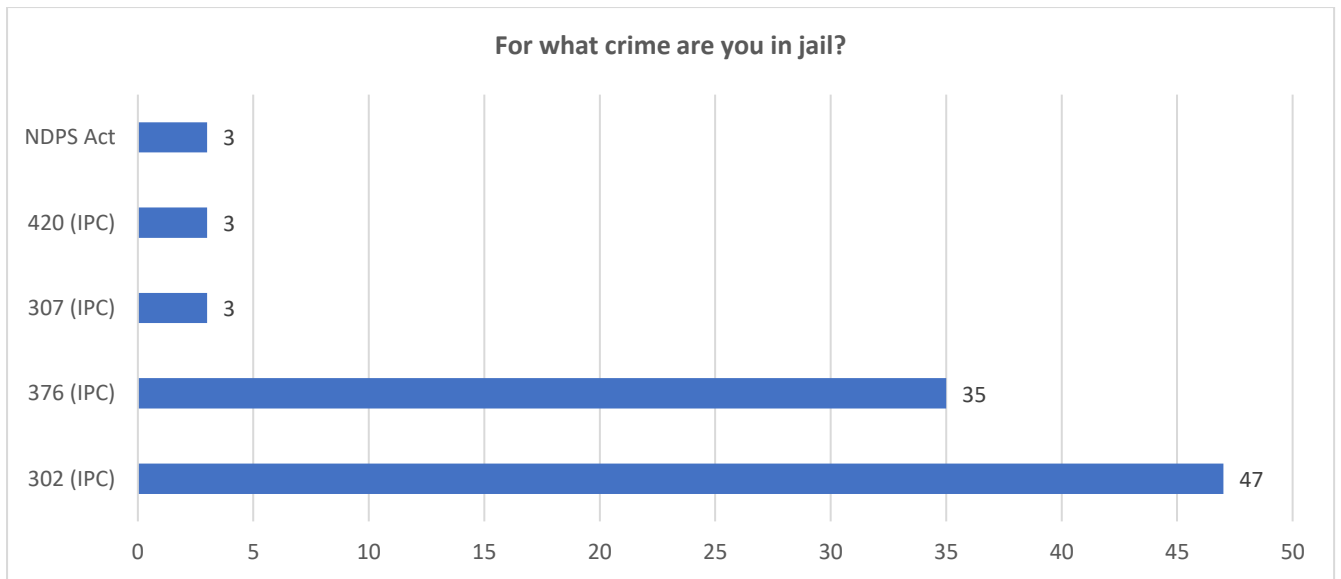


Figure 16: Offence for incarcerated

To analyze the data regarding the crimes for which prisoners are incarcerated, we have the following breakdown:

1. **NDPS (Narcotic Drugs and Psychotropic Substances Act):** 3 prisoners.
2. **420 (Cheating and Fraud under Section 420 of the Indian Penal Code):** 3 prisoners.
3. **307 (Attempt to Murder under Section 307 of the Indian Penal Code):** 3 prisoners.
4. **376 (Rape under Section 376 of the Indian Penal Code):** 35 prisoners.
5. **302 (Murder under Section 302 of the Indian Penal Code):** 47 prisoners.
6. **7 (No response for what crime they are in Jail- As per the data collected)**

Analysis:

1. Distribution of Crimes:

- The most common crime among the prisoners is **murder (Section 302)**, with 47 prisoners incarcerated for this offense. This indicates that a significant proportion of the surveyed population is serving time for serious violent crimes.

- **NDPS, 420, and 307** each have 3 prisoners, representing a smaller fraction of the total crimes. These categories include offenses related to drug-related crimes, cheating and fraud, and attempted murder, respectively.
- **35 prisoners** are involved in crimes of penetrative sexual assault which suggests a significant proportion of the surveyed population.

2. Prevalence:

- The high number of prisoners charged with murder suggests that violent crimes are a significant concern within this group.
- The similar counts for NDPS, 420, and 307 indicate that these crimes are less prevalent among the surveyed prisoners compared to murder.

Overall, the analysis suggests that while murder and rape is the most common offense among the surveyed prisoners, there is a notable presence of other types of crimes as well. The detailed understanding of these distributions can help in identifying trends and addressing issues specific to different types of offenses within the prison system.

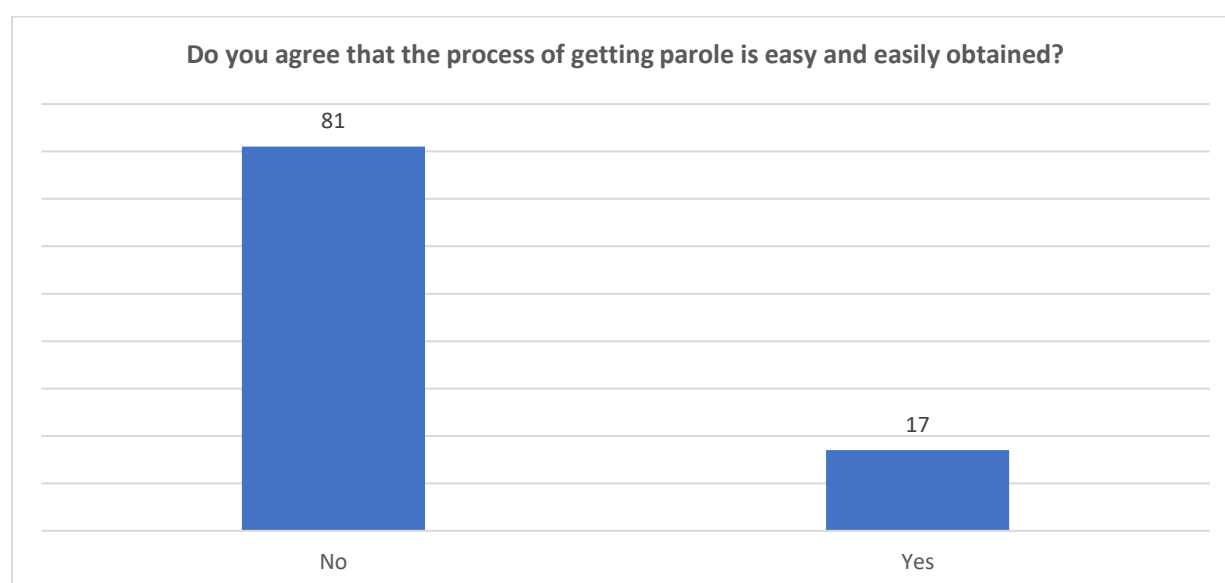


Figure 17: Process of grant of Parole

In response to the question, "Do you agree that the process of getting parole is easy and easily obtained?" the survey results are as follows:

- Yes: 17 prisoners believe that the process of obtaining parole is easy and easily obtained. This small proportion suggests that a minority of prisoners feel positively about the accessibility and simplicity of the parole process.
- No: 81 prisoners disagree, indicating that they find the parole process challenging or difficult to navigate. This significant majority reflects a broader sentiment of dissatisfaction or frustration with the ease of obtaining parole.

Analysis:

1. Perceived Ease of Parole:

- The overwhelming majority of prisoners (81 out of 98) feel that the parole process is not easy, suggesting that they perceive significant obstacles or complexities in obtaining parole. This could be due to various factors, such as stringent eligibility criteria, bureaucratic hurdles, or lack of information about the process.

2. Minority Viewpoint:

- A smaller group (17 prisoners) believes that the process is relatively straightforward. This minority perspective may represent those who have had a more favorable experience or who may have a better understanding of the parole process.

3. Implications:

- The large discrepancy between the "Yes" and "No" responses highlights a potential issue in the accessibility of parole. The significant number of prisoners who find the process difficult suggests that reforms or improvements might be needed to make the parole process more transparent and accessible.
- Understanding the barriers that prisoners face in the parole process can help in identifying areas for reform and ensuring that the system is fair and efficient.

Overall, the data indicates that while a small number of prisoners feel that the parole process is easy, the majority experience it as challenging, pointing to potential areas for improvement in the parole system.

Overall, the data shows that while most prisoners consider the parole process to be simple, a significant number still find it challenging, highlighting a need for further exploration of the issues faced by those who encounter difficulties.

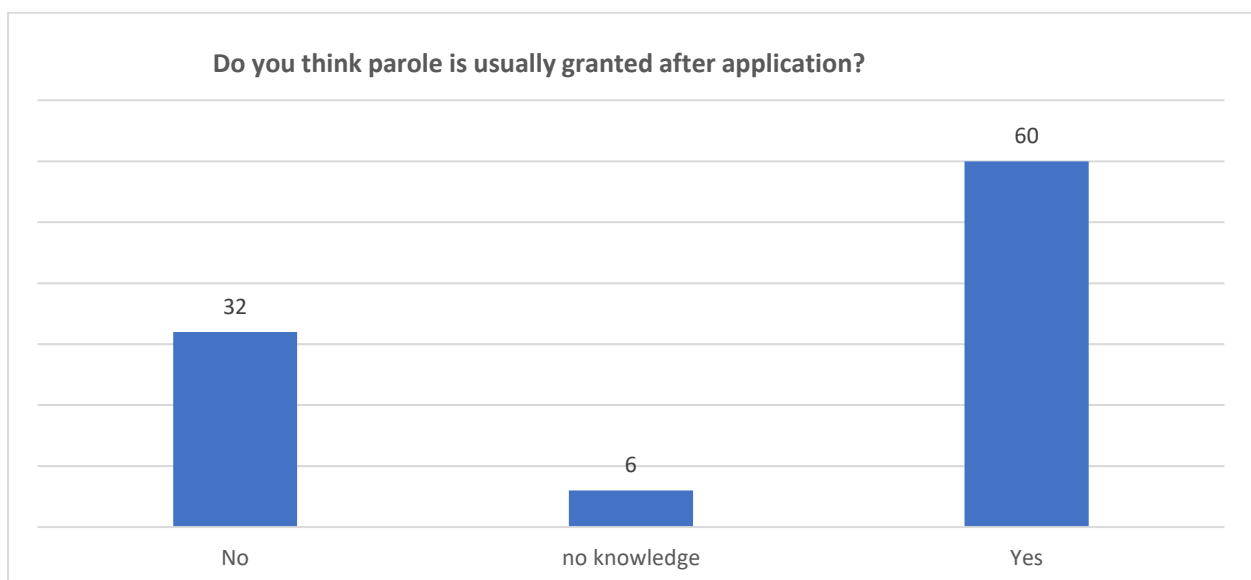


Figure 18: Grant of parole application

In response to the question, "Do you think parole is usually granted after application?" the survey results are as follows:

- **Yes:** 60 respondents believe that parole is usually granted after an application. This indicates that a majority of respondents have the perception that parole is commonly granted following an application process.
- **No:** 32 respondents think that parole is not usually granted after application. This group feels that the success rate of parole applications is relatively low, suggesting skepticism about the likelihood of being granted parole.

- **No Knowledge:** 6 respondents indicate that they have no knowledge about whether parole is usually granted after an application. This small number reflects a lack of information or experience regarding the parole process among these individuals.

Analysis:

1. Perception of Parole Granting:

- The majority of respondents (60 out of 98) perceive that parole is usually granted after an application, which could reflect a general belief in the fairness or effectiveness of the parole system.
- The 32 respondents who believe that parole is not usually granted suggest a concern about the success rate or effectiveness of the parole process, indicating that they may have reservations about how often parole is granted.

2. Knowledge Gaps:

- The 6 respondents who have no knowledge about the parole process highlight a potential gap in awareness or understanding of how parole decisions are made. This suggests a need for better information and education regarding parole procedures.

3. Implications:

- The differing opinions on whether parole is usually granted after an application may reflect varying experiences or perceptions of the parole system's fairness and effectiveness.
- Addressing the concerns of those who believe parole is rarely granted could involve examining the reasons behind parole denials and ensuring that the process is transparent and equitable.
- Improving awareness and providing clear information about the parole process could help in aligning perceptions with the actual practices and success rates.

Overall, while a majority believe that parole is typically granted after application, there is a significant minority that disagrees, and a small group lacks sufficient knowledge, highlighting areas where the system could improve in terms of transparency and communication.

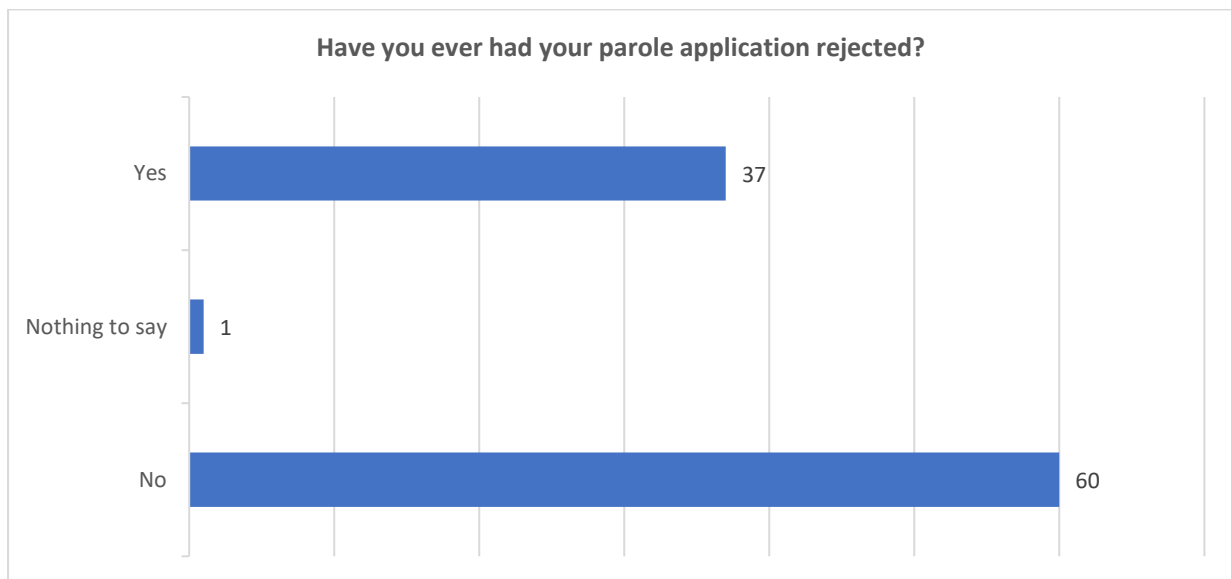


Figure 19: Rejection of Parole.

In response to the question, "Have you ever had your parole application rejected?" the survey results are as follows:

- **Yes:** 37 respondents have had their parole application rejected. This indicates that a significant number of individuals have faced the challenge of having their parole requests denied.
- **No:** 60 respondents have not had their parole application rejected. This suggests that these individuals have either successfully obtained parole or have not yet applied.
- **Nothing to Say:** 1 respondent did not provide a clear answer or declined to comment.

Analysis:

1. Rejection Rates:

- With 37 out of 98 respondents reporting that their parole application was rejected, this represents a notable portion of the survey population experiencing difficulties with the parole process. This highlights that rejection is a common issue among those who have applied.

2. Acceptance Rates:

- The 60 respondents who have not had their applications rejected suggest either successful parole outcomes or no prior application. This number reflects a majority who have either managed to secure parole or have not faced rejection.

3. Knowledge Gaps:

- The single respondent who had "nothing to say" about their application status might reflect uncertainty or a lack of relevant experience with the parole process.

4. Implications:

- The data indicates that while a majority of respondents have not had their applications rejected, a significant number have faced rejection. This could point to areas where the parole system might need improvement or where applicants might benefit from better support and guidance.
- Understanding the reasons behind parole rejections could help in identifying potential barriers or issues in the application process and in developing strategies to improve the chances of successful applications.

Overall, the survey reveals that while many have not experienced rejection, a significant portion has, suggesting a need for further exploration into the factors affecting the success rates of parole applications.

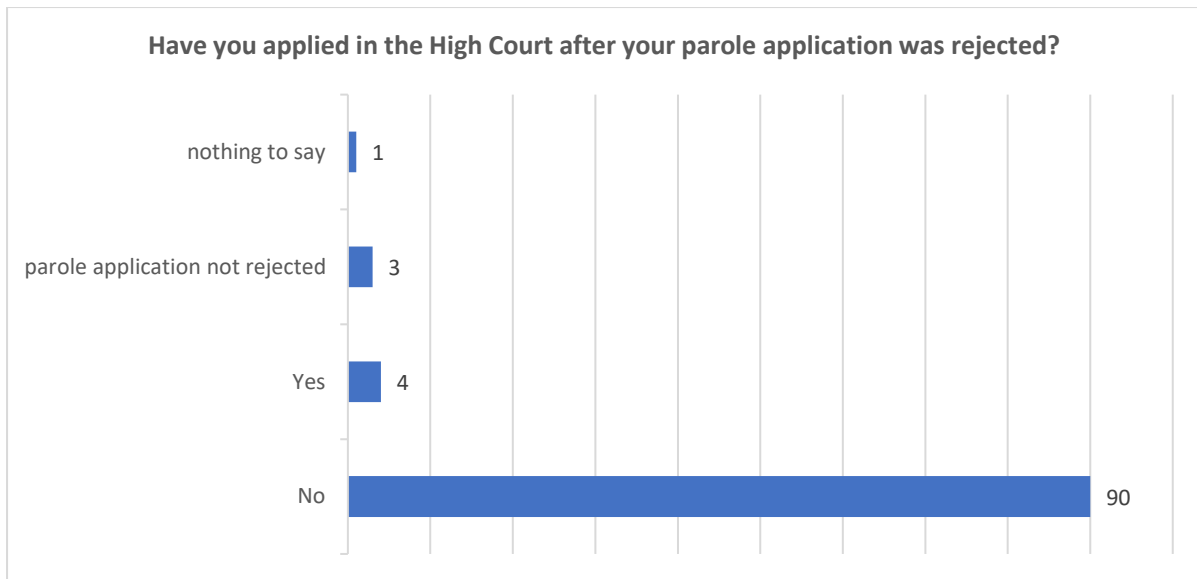


Figure 20: Application for Parole in High Court

In response to the question, "Have you applied in the High Court after your parole application was rejected?" the survey results are as follows:

- **No:** 90 respondents have not applied to the High Court after their parole application was rejected. This indicates that the vast majority of those who had their parole applications rejected did not pursue further legal action.
- **Yes:** 4 respondents have applied to the High Court following the rejection of their parole applications. This suggests that a small number of individuals chose to escalate their case to a higher judicial authority.
- **Parole Application Not Rejected:** 3 respondents indicated that their parole applications were not rejected. This implies that these individuals did not need to seek further legal recourse because their initial applications were successful or still pending.

Analysis:

1. Legal Recourse:

- The majority (90 out of 97) did not seek to apply to the High Court after their parole applications were rejected. This may reflect a variety of factors, such as a lack of awareness of the option to appeal, a belief that

further legal action would be ineffective, or possible barriers to pursuing such a step.

2. Appeals to Higher Courts:

- A small number of respondents (4) did take the step of applying to the High Court, indicating that some individuals are willing to pursue higher legal avenues to challenge parole rejections. This may reflect a determination to overturn the decision or a belief in the potential for judicial review to affect their case.

3. No Rejection:

- The 3 respondents whose parole applications were not rejected are not relevant to this question of pursuing further legal action, as they did not experience a rejection that would necessitate appealing to the High Court.

4. Implications:

- The data suggests that while most individuals do not pursue further legal action after a parole application rejection, there is a small group that does seek higher judicial review. This could indicate the need for better information and support for prisoners regarding their options for appeal.
- Understanding the barriers that prevent more widespread appeal to higher courts could help in improving access to justice and ensuring that individuals are aware of and able to exercise their rights to challenge parole decisions.

Overall, the survey results reveal that a significant majority do not seek High Court intervention following a parole rejection, with only a few pursuing this path, highlighting a potential gap in awareness or accessibility regarding further legal recourse.

6.29 Data analysis of prison personnel's

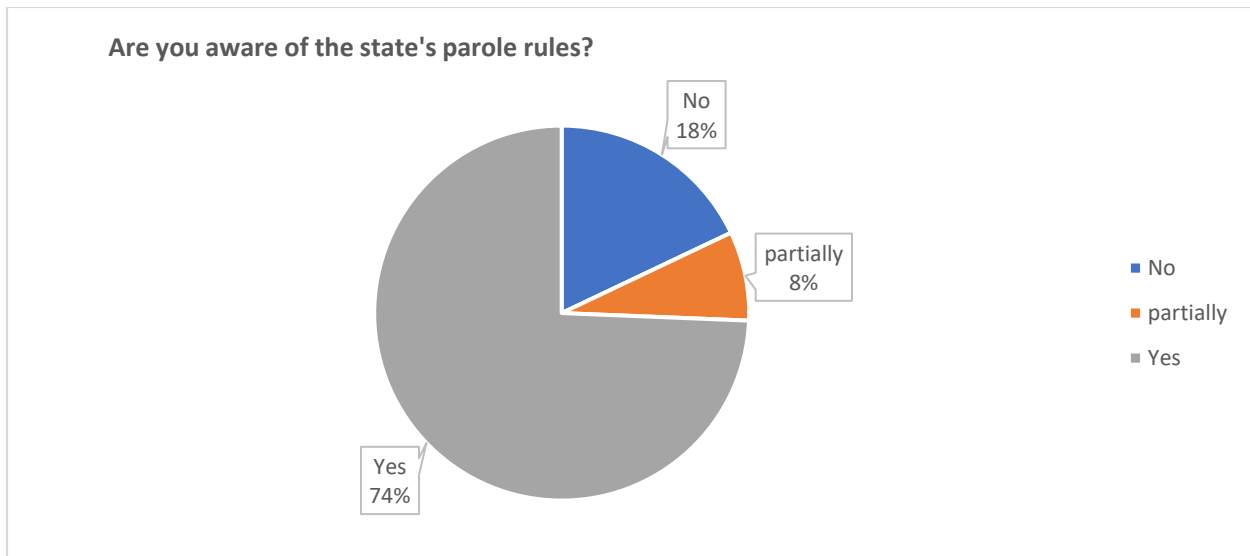


Figure 21: Data for Prison Personnels.

In response to the question, "Are you aware of the state's parole rules?" as reported by prison personnel or officials, the results are as follows:

- **Yes:** 74% of respondents are aware of the state's parole rules. This indicates a strong majority of prison personnel or officials have a clear understanding of the regulations governing parole in their jurisdiction.
- **No:** 18% of respondents are not aware of the state's parole rules. This group represents a smaller portion of personnel who may lack detailed knowledge of the parole regulations.
- **Partially:** 8% of respondents have partial awareness of the state's parole rules. This suggests that these individuals have some understanding but may not be fully informed about all aspects of the parole system.

Analysis:

1. General Awareness:

- The high percentage of respondents (74%) who are fully aware of the state's parole rules suggests that a significant majority of prison personnel or officials are well-informed about the parole system. This is crucial for ensuring that parole processes are managed correctly and consistently.

2. Knowledge Gaps:

- The 18% who are not aware of the state's parole rules represent a notable portion of personnel who may require further training or information. Lack of awareness could potentially impact the effective implementation and administration of parole processes.

3. Partial Awareness:

- The 8% with partial knowledge indicate that while they have some understanding, there might be gaps in their knowledge. This could imply that additional resources or training could be beneficial to ensure comprehensive awareness among all personnel.

4. Implications for Training and Policy:

- The data suggests a need for continuous education and training for prison personnel to ensure that everyone involved in the parole process has a thorough understanding of the rules and regulations. Addressing the knowledge gaps among the 18% who are not aware and the 8% with partial knowledge can improve the overall effectiveness of the parole system.
- Ensuring that all personnel are fully informed about parole rules can help in maintaining consistency in decision-making and in supporting fair and transparent parole procedures.

Overall, while the majority of respondents are knowledgeable about the state's parole rules, there remains a need to address the gaps in awareness among a minority of personnel to enhance the effectiveness and fairness of the parole system.

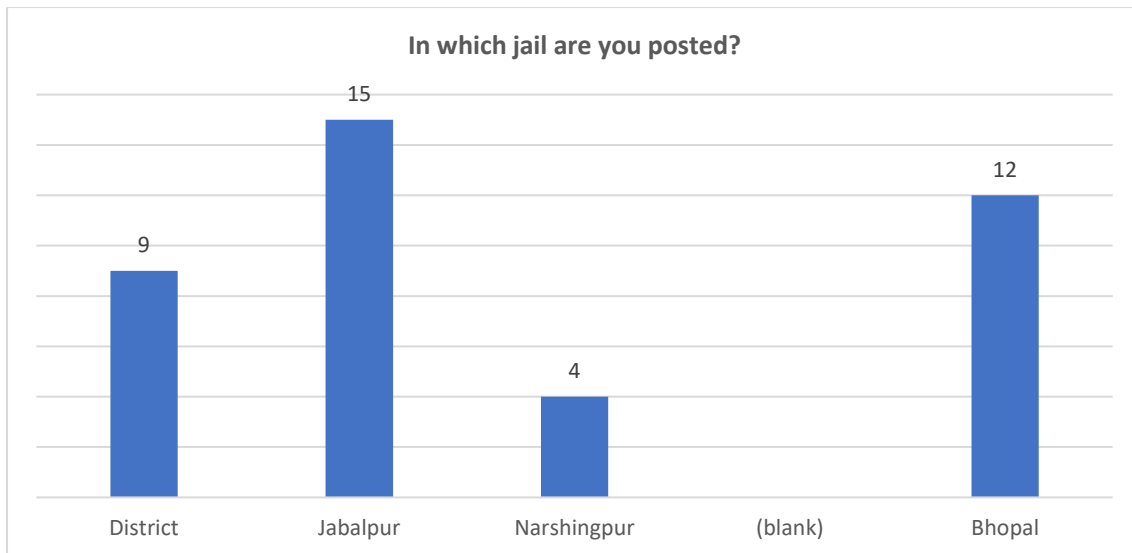


Figure 22: Jail Data for prison personnel

In response to the question, "In which jail are you posted?" the distribution of prison personnel or officials is as follows:

- **District Jail:** 9 personnel are posted here.
- **Jabalpur Jail:** 15 personnel are posted here.
- **Narsinghpur Jail:** 4 personnel are posted here.
- **Bhopal Jail:** 12 personnel are posted here.

Analysis:

1. Distribution of Personnel:

- **Jabalpur Jail** has the highest number of personnel (15), indicating that it is the largest or most significant facility in terms of staffing among the listed jails.
- **Bhopal Jail** also has a substantial number of personnel (12), suggesting it is a major facility as well.
- **District Jail** has 9 personnel, showing it has a moderate level of staffing.
- **Narsinghpur Jail** has the fewest personnel (4), which may indicate it is a smaller facility or one with fewer staff requirements compared to the others.

2. Implications for Resource Allocation:

- The varying numbers of personnel across these jails may reflect differences in the size, capacity, or operational demands of each facility. Jails with higher staffing levels might be managing larger populations or have more complex operational needs.
- Understanding the distribution of personnel can help in evaluating resource allocation and operational efficiency at different jails. It may also highlight areas where additional support or resources might be needed.

3. Operational Context:

- The staffing distribution suggests that the larger jails (Jabalpur and Bhopal) require more personnel, which could be due to higher inmate populations or more extensive administrative and security needs.
- Smaller facilities (like Narsinghpur) have fewer personnel, which might align with their operational scale and inmate numbers.

Overall, the data provides insight into the distribution of prison personnel across different jails, highlighting variations in staffing levels that reflect the operational needs and scale of each facility.

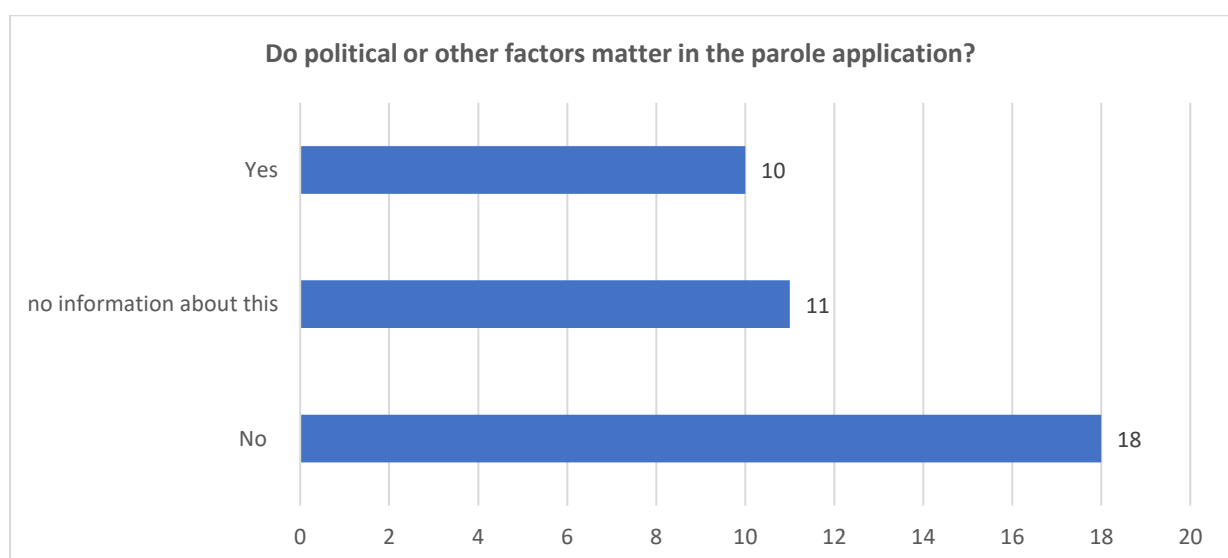


Figure 23: Factors in parole application

In response to the question, "Do political or other factors matter in the parole application?" the survey results are as follows:

- **Yes:** 10 respondents believe that political or other factors do influence the parole application process. This suggests that a small portion of individuals think that external factors, such as political influence or other non-legal considerations, play a role in determining parole outcomes.
- **No Information:** 11 respondents did not provide information or have no opinion on whether political or other factors impact parole decisions. This indicates uncertainty or a lack of knowledge about the influence of such factors.
- **No:** 18 respondents believe that political or other factors do not matter in the parole application process. This group maintains that parole decisions are based solely on legal and procedural criteria, without external influences.

Analysis:

1. Perceived Influence of External Factors:

- A minority of respondents (10 out of 39) perceive that political or other external factors have an impact on the parole application process. This could reflect concerns about fairness and impartiality in how parole decisions are made.

2. Lack of Information or Opinion:

- The 11 respondents who provided no information or are unsure suggest that there may be limited awareness or clarity about the role of external factors in parole decisions. This highlights a potential area for increased transparency and education.

3. Belief in a Fair Process:

- A larger portion (18 respondents) believe that external factors do not influence the parole process, indicating confidence in the fairness and integrity of the system based on established criteria and procedures.

4. Implications:

- The diverse responses highlight a need for further investigation into the actual influence of political or other external factors on the parole process. Ensuring transparency and addressing any concerns about external influences can help in maintaining the credibility of the parole system.
- Providing clear information and education about how parole decisions are made can help in alleviating concerns and improving understanding among respondents.

Overall, while there is a small percentage who believe that external factors influence parole applications, a significant number of respondents either do not think so or are uncertain. This suggests a need for ongoing efforts to ensure the fairness and transparency of the parole process.

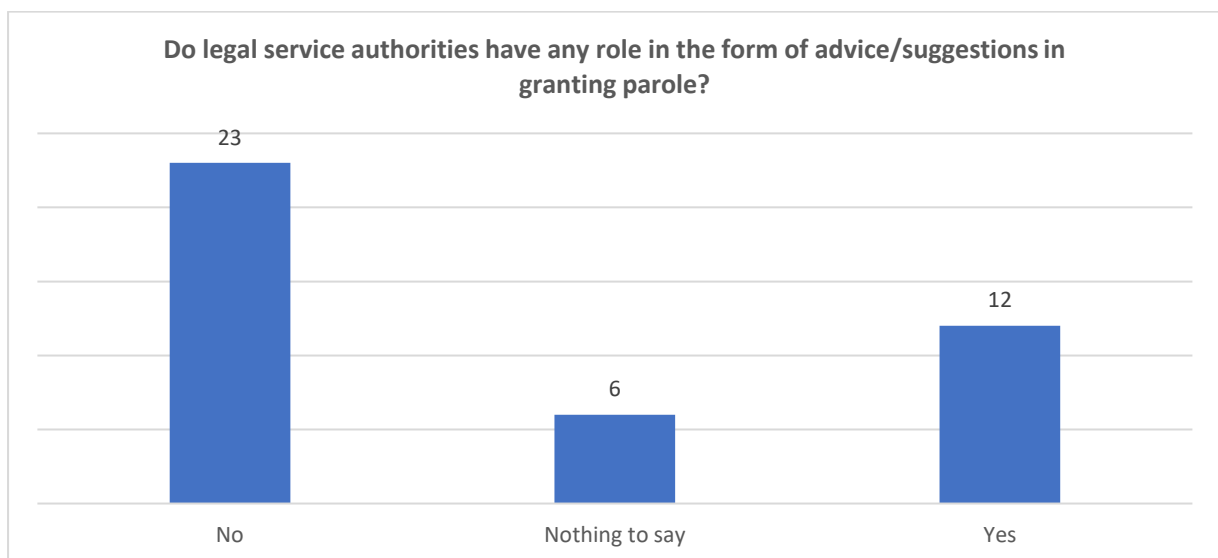


Figure 24: Role of legal services authority.

In response to the question, "Do legal service authorities have any role in the form of advice/suggestions in granting parole?" the survey results are as follows:

- **Yes:** 12 respondents believe that legal service authorities do play a role in providing advice or suggestions related to granting parole. This indicates that

some individuals perceive these authorities as having an advisory function in the parole process.

- **No:** 23 respondents think that legal service authorities do not have any role in the parole process in terms of advice or suggestions. This suggests a belief that these authorities are not involved in the decision-making process for parole.
- **Nothing to Say:** 6 respondents did not provide a clear answer or have no opinion on the matter. This could reflect uncertainty or a lack of information about the role of legal service authorities in the parole process.

Analysis:

1. Perceived Role of Legal Service Authorities:

- A small group (12 out of 41) sees a role for legal service authorities in advising or suggesting aspects related to parole. This suggests that there is some recognition of their involvement in the process.

2. Lack of Involvement:

- A larger number (23 respondents) do not believe that legal service authorities have a role in providing advice or suggestions on parole. This indicates that these individuals view legal service authorities as not being part of the parole process or decision-making.

3. Uncertainty:

- The 6 respondents who have "nothing to say" may lack sufficient information or have not been directly involved in or affected by the parole process, leading to uncertainty about the role of legal service authorities.

4. Implications:

- The data shows a significant variation in perceptions about the involvement of legal service authorities in the parole process. Clarifying the actual role of these authorities and ensuring that their functions are well understood can help in managing expectations and improving transparency.

- If legal service authorities do have a role in providing advice or suggestions, it is important to communicate this clearly to all stakeholders to ensure that their role is recognized and understood.

Overall, while there is a range of opinions on the involvement of legal service authorities in the parole process, with some believing in their advisory role and others not, there is a need for clarity and communication regarding their actual functions and impact on parole decisions.

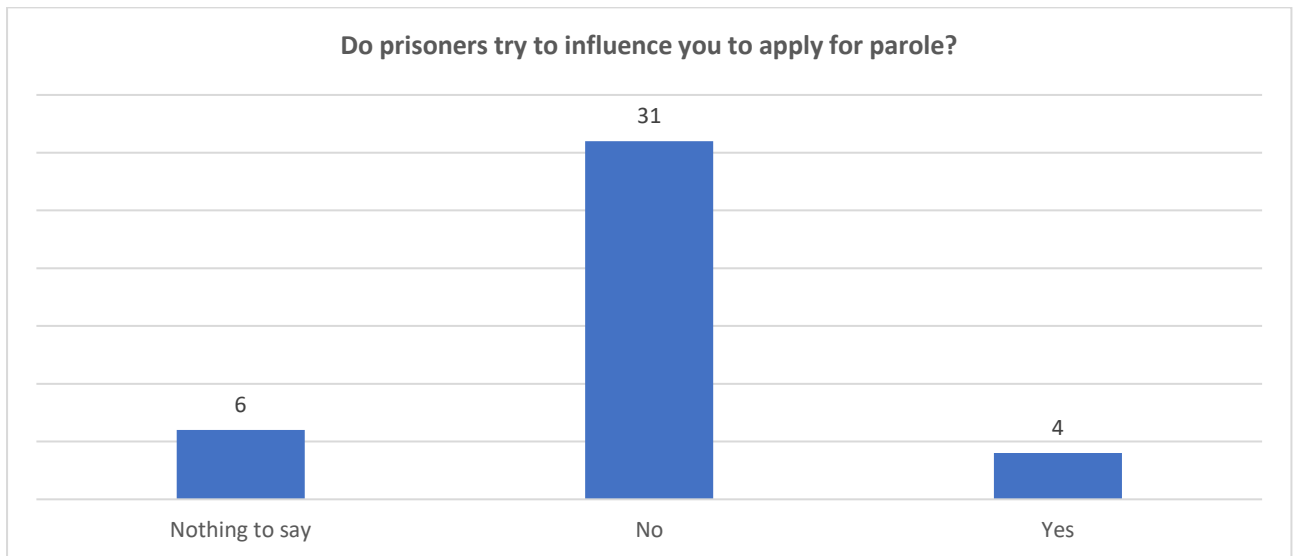


Figure 25: Prisoners influence for Parole application

In response to the question, "Do prisoners try to influence you to apply for parole?" the survey results are as follows:

- **Yes:** 4 respondents have experienced attempts by prisoners to influence them to apply for parole. This indicates that a small number of personnel have faced direct efforts from prisoners seeking to affect the parole application process.
- **No:** 31 respondents have not experienced such attempts. This suggests that the majority of personnel do not encounter efforts from prisoners to influence their actions regarding parole applications.

- **Nothing to Say:** 6 respondents did not provide a clear answer or have no opinion on the matter. This could reflect a lack of relevant experience or uncertainty about the issue.

Analysis:

1. Frequency of Influence Attempts:

- The relatively small number of respondents (4 out of 41) who have experienced attempts by prisoners to influence parole applications suggests that such attempts are not widespread. This may indicate that most prisoners either do not try to influence personnel or that such attempts are not significant in the context of the survey.

2. Lack of Influence Attempts:

- A significant majority (31 respondents) have not faced any attempts from prisoners to influence them regarding parole applications. This suggests that for most personnel, the issue of prisoner influence on parole decisions is not a prevalent concern.

3. Uncertainty:

- The 6 respondents who have "nothing to say" might either not have encountered such attempts or might not be in a position to comment on this aspect, reflecting a lack of direct experience or information on the issue.

4. Implications:

- The data indicates that while some personnel do experience attempts by prisoners to influence parole applications, this is not a widespread issue. This suggests that while managing such attempts is important, it is not a major concern for the majority of respondents.
- It might be beneficial to ensure that all personnel are aware of procedures and safeguards to handle any attempts at influence, ensuring that the parole process remains fair and unbiased.

Overall, the majority of respondents do not encounter attempts by prisoners to influence them in the parole application process, with only a few experiencing such attempts. This indicates that while the issue is not prevalent for most, appropriate measures should be in place to address and manage any such attempts.

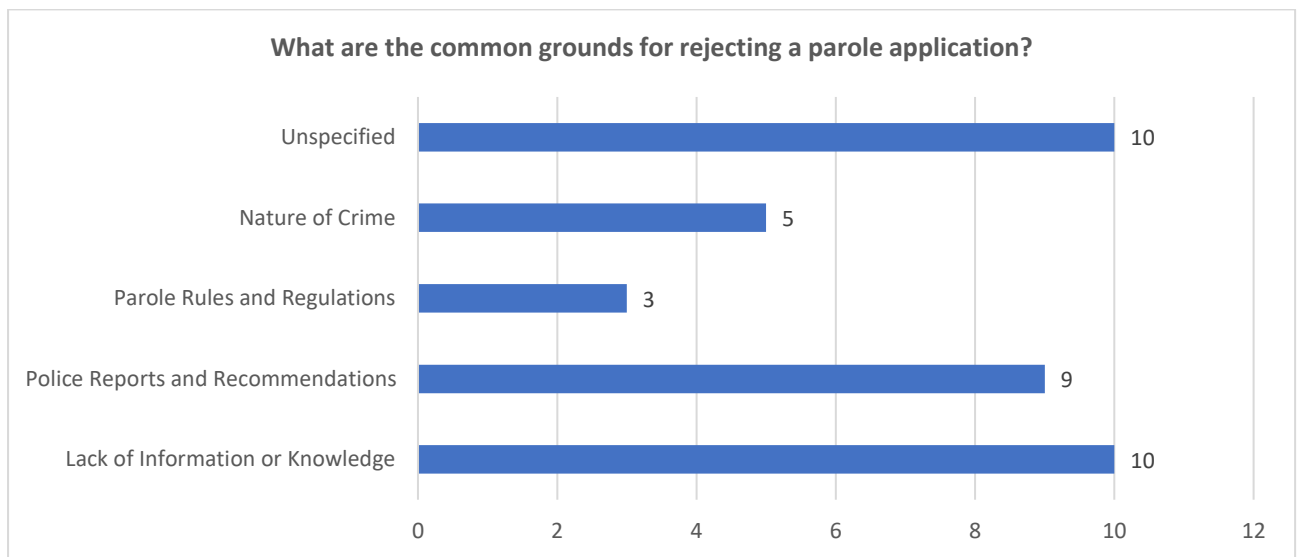


Figure 26: Grounds for rejecting parole application

In response to the question, "What are the common grounds for rejecting a parole application?" the survey results are as follows:

- **Unspecified:** 10 respondents cited unspecified reasons for rejecting parole applications. This category represents a range of reasons that are not detailed or explicitly defined by the respondents.
- **Nature of Crime:** 5 respondents indicated that the nature of the crime is a common ground for rejecting parole applications. This suggests that the severity or type of crime committed plays a significant role in the decision to deny parole.
- **Parole Rules and Regulations:** 3 respondents noted that adherence to parole rules and regulations is a factor in rejecting applications. This implies that non-compliance with established guidelines can lead to a rejection.

- **Police Reports and Recommendations:** 9 respondents cited police reports and recommendations as a common basis for rejecting parole applications. This highlights the influence of law enforcement assessments and suggestions on the parole decision.
- **Lack of Information or Knowledge:** 10 respondents mentioned that a lack of information or knowledge about the applicant is a reason for rejecting parole applications. This indicates that incomplete or insufficient information about the applicant's background, behavior, or rehabilitation can contribute to a denial.

Analysis:

1. Diverse Grounds for Rejection:

- The reasons for rejecting parole applications are varied, with no single factor dominating. This diversity reflects the complexity of the parole decision-making process, which involves multiple considerations.

2. Influence of Crime Severity:

- The nature of the crime (5 respondents) is a significant factor, suggesting that the seriousness of the offense is a primary consideration in parole decisions. Serious or violent crimes may be more likely to result in a rejection of parole applications.

3. Compliance with Rules:

- Adherence to parole rules and regulations (3 respondents) is also important. Non-compliance with these rules can be a clear basis for denying parole, indicating the importance of following established procedures.

4. Role of Law Enforcement:

- Police reports and recommendations (9 respondents) are a key factor, underscoring the role of law enforcement in providing assessments and recommendations that influence parole decisions.

5. Information Gaps:

- The lack of information or knowledge (10 respondents) highlights that insufficient or incomplete information about the applicant can lead to rejection. This emphasizes the need for thorough and accurate information during the parole application process.

6. Unspecified Reasons:

- The category of unspecified reasons (10 respondents) reflects a range of factors that are not detailed, indicating that some rejections are based on considerations not explicitly listed or documented.

Implications:

➤ Improving Information and Transparency:

- Addressing the issue of incomplete information by ensuring that all relevant details about the applicant are provided can help in making more informed and fair decisions regarding parole applications.

➤ Clear Guidelines and Training:

- Providing clear guidelines and training for personnel involved in the parole process can help in reducing rejections based on non-compliance with rules or lack of information.

➤ Considering Crime Severity:

- Ensuring that the nature of the crime is weighed appropriately while balancing it with the applicant's rehabilitation efforts and behavior is crucial for fairness in the decision-making process.

Overall, the survey highlights multiple grounds for rejecting parole applications, reflecting the complexity of the decision-making process and the need for comprehensive information and adherence to established guidelines.

6.30 Demographic analysis

As per the data from the Prison statistics of India from 2006-2022 the below mentioned data reflects total distribution of convicts (Indian Prisoners) in jails by Sex and age group of 18-30 years at the end of the respective year in the state of Madhya Pradesh. The table also reflects the persons released on parole during the respective year.

Year	Convicts (Male)	Convicts (Female)	Total Convicts	Parole (Male)	Parole (Female)	Parole (Transgender)	Total Parole Released
2022	8319	246	8565	6314	238	0	6552
2021	7929	270	8200	5748	213	0	5961
2020	5669	161	5830	5941	196	0	6137
2019	7818	223	8041	3610	53	No information	3663
2018	6996	172	7168	3949	77	No information	4026
2017	6530	167	6697	4102	43	No information	4145
2016	6647	163	6810	4023	160	No information	4183
2015	6608	169	6777	5097	243	No information	5340
2014	5673	118	5791	4230	251	No information	4481
2013	6534	123	6657	4192	70	No information	4262
2012	6194	140	6334	7247	56	No information	7303
2011	6672	148	6820	1987	11	No information	1998
2010	6366	135	6501	3399	14	No information	3413
2009	5911	119	6030	2965	31	No information	2996
2008	6290	126	6416	1636	11	No information	1647
2007	6371	105	6476	1204	9	No information	1213
2006	6232	119	6351	1761	0	No information	1761

Table: 5: Distribution of convicts (Indian Prisoners) in jails by Sex and age group.

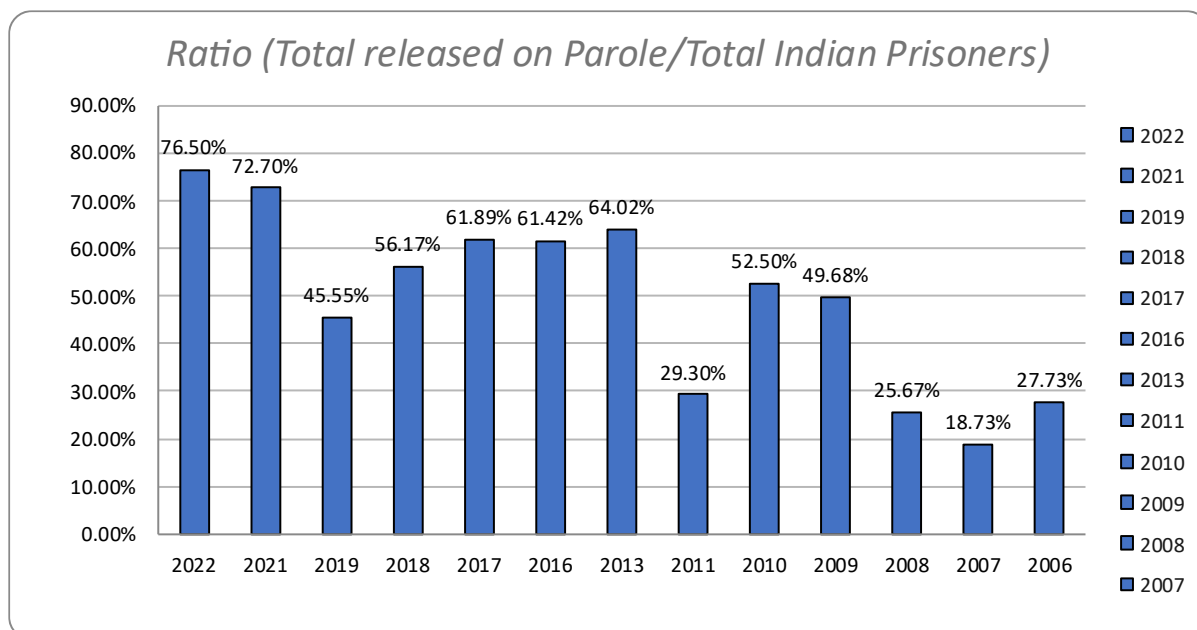


Figure 27: Total released on Parole/Total Prisoners

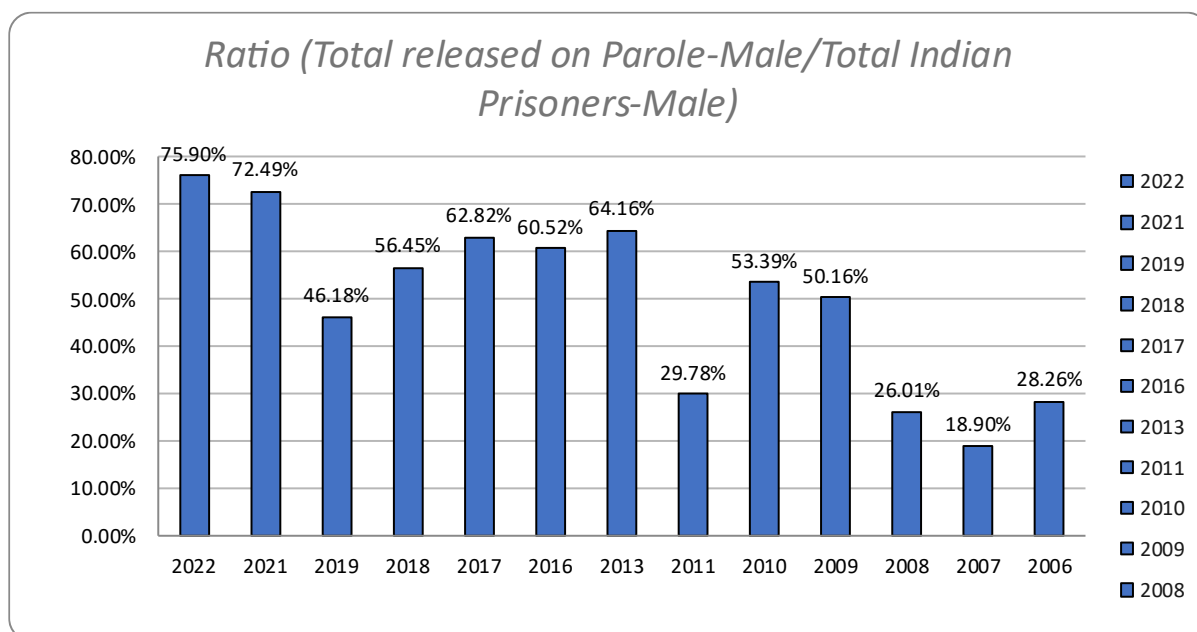


Figure 28: Total released on Parole/Total Prisoners-Male

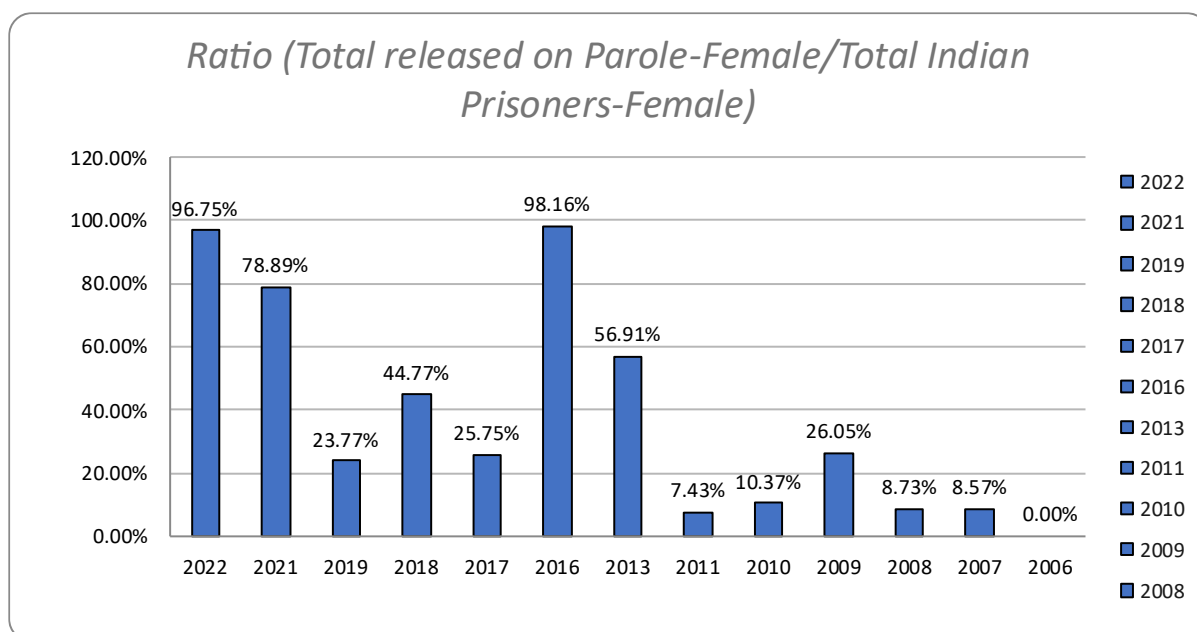


Figure 29: Total released on Parole/Total Prisoners-Female

As per the tables above which provides for the number of convicted prisoners in jail both for Male and Female and the number of prisoners released on parole both Male and Female. It can be clearly observed that there is no uniform trend in the number of individuals (male and female) for the years from 2006-2022. The above data also reflects that during the covid-19 pandemic a greater number of convicted persons were released in comparison to other years.

In this study the demographic analysis of the prisoners who got parole on the basis of gender can only be done as the information for demographic analysis is not possible and limited in this study. Though the information for classification of prisoners in jail is provided on the basis of caste, domicile, religion and educational profile of the convicts but no information/classification is available for the prisoners released on parole on caste, tribal status, education, religion etc.

As parole is a very important therapeutic technique for reformation and rehabilitation of prisoners. For the analysis of these factors a separate study is recommended and it is also recommended to the National Crime Records Bureau and the jail departments of various states to include these factors and publish the same on their official website.

CHAPTER 7

CONCLUSION AND RECOMMENDATIONS

Conclusion

The public is concerned about crime in our society. A society's future is determined by how it handles crime. If such a response is harsh or arbitrary in its effects, it does a grave injustice to those who are subjected to its burdens. Understanding a society's approaches to dealing with crime requires an understanding of how criminal justice is administered.

The criminal justice system today is different from it was in the past. Harsh, retaliatory forms of punishment are now becoming less effective as a result of the increased emphasis on correction, reformation, and rehabilitation in modern society. Reports from all over the world have repeatedly highlighted this issue. The fact that so many petitions have been filed in this regard shows that, to some extent, Indian mentality is not far behind other nations in adopting this liberal trend. Recent rulings have emphasised the necessity of improving prison administration to make it more criminal-friendly. The criminal justice system is evolving to a new, more liberal level as a result of growing significance, declining recidivism, and the need for reintegrated and reformatory forms of punishment.

The main objective of prisons is to re-socialize and assimilate prisoners. The foundation of prison administration is the offenders' rehabilitation and personal development while also ensuring their social security. It is crucial that punishment become more reformatory in nature in order to achieve them. The legislature and prison administration have created a number of therapeutic programmes based on this theory.

Prisoner conditional release is one of these initiatives. Depending on its purpose, a release like this might be referred to as a furlough or parole. Both of these are essential components of the prison administration system because they both aim to reform prisoners and humanise the prison environment. A furlough is a leave of absence typically given to a missionary or other member of the armed forces. Parole refers to a

conditional or limited temporary release of a prisoner during the course of his sentence for a particular objective. It is given in exchange for good behaviour.

Multiple parole requests have been filed as a result of the Covid-19 Pandemic, and since there is no uniform code in India that governs parole, different states have expressed varying opinions on the matter, which has compromised equality in terms of the advancement of criminal justice.

The idea of parole has its roots in military law. In exchange for a promise to return when the interim release period is over, prisoners of war were given temporary access to their homes and the freedom to live as normal citizens for a while. With the passage of time, parole became a component of India's criminal justice system, giving prisoners the chance to spend some time interacting with society. However, a prisoner could only receive it if they had already completed a portion of their sentence.

As determined in the *Budhi v. State of Rajasthan* case, the concept of parole has three main functions.

- 1) As an inspiration for inmates' reformation.
- 2) Maintain the family relationships of the prisoners as intactly as possible; otherwise, they may break down as a result of the prisoner's prolonged incarceration.
- 3) Assist the deceived individuals in gradually assimilating into society and adjusting to its norms. (*Budhi v. State of Rajasthan & Ors*, 2005)

It is a mechanism that guarantees the temporary release of inmates based on good behaviour so they can temporarily evade custody while maintaining their ties to family and society. This aids in facilitating recovery and social reintegration. The parolee is given a temporary reprieve to fulfil some needs, and during his time out, he is required to report regularly to the supervisory officer. To put it simply, a prisoner who has not yet served his full sentence may apply for parole and spend some time outside of custody.

The question now is whether or not the time a prisoner spends on parole counts towards their sentence. The Supreme Court has expressed various viewpoints on this at various times. The Supreme Court of India stated in the case of (*Smt. Poonam Lata vs. M.L. Wadhawan & Ors*, 1987). that "it must accordingly be held that the period of parole has to be excluded in reckoning the period of detention." A few years later, in the case of

(Sunil Fulchand Shah v. Union of India, 1988) the Supreme Court ruled that "a temporary release of the detained person does not change his status as his freedom and liberty are not fully restored. The duration of a temporary parolee's release cannot be excluded from the maximum period of detention, therefore. Consequently, the judgement rendered in the Poonam Lata case was overturned.

As there is no uniform policy during the Covid-19 period the adjust of sentence during release of prisoners for some states is as under:

The Government of NCT Delhi inserted Rule 1212A in the Delhi Prisons Rules, 2018, vide notification No. F 18/191/2015/HG/1379-1392 dated 23.03.2020. It included the Covid emergency parole given to convicts as part of sentence upto eight weeks.

The office of DG Prisons, Madhya Pradesh vide its notification dated 30.03.2020 has also decided to count the emergency leave/parole granted to convicts as part of sentence upto 60 days.

The State of Maharashtra has not counted the period of parole as part of sentence of convicts. A convict prisoner had approached the Hon'ble Supreme Court in Mubin Khan vs. State of Maharashtra, Criminal Appeal No.1434/2012, a similar prayer for counting the sentence of Covid parole as period undergone was made. Vide order dated 28.10.2021, the Supreme Court asked the State of Maharashtra to take a policy decision with regard to the same.

In the cases of (Kantilal Nandlal Jaiswal v. Divisional Commissioner, 2018) and (Hariom Vijay Pande v. State of Maharashtra, 2019), the Bombay High Court ruled that parole is a restricted legal right that can be granted to a convicted individual. However, in the case of The (Home Secretary (Prison) v. H. Nilofer Nisha, 2020), the Supreme Court made it abundantly clear that "the grant of remission or parole is not a right vested with the prisoner." It is a privilege that can be granted to the inmate provided that certain conditions are met.

Moving forward, it's critical to keep in mind the rights of the victim and the security implications of parole release in addition to the offenders' rehabilitation. While on parole, there have been cases of convicted criminals turning to committing crimes. In the famous case of (Saibanna v. State of Karnataka, 2005) the husband of the victim was found guilty of her murder and sentenced to life in prison. He killed his second wife and his daughter

while on parole because he thought she was cheating on him. There can be no disagreement regarding the rights of the victims and the safety of society. The rights of a victim or the community cannot take precedence over the rights of an accused person. If that were the case, they would only have led to the accuser receiving unfair sympathy.

Now, there was a provision in the Delhi Parole Guidelines designed to strike a balance between the need to give prisoners the chance to connect with society and maintain their family ties through getting parole and at the same time, prevent such incidents from happening. It states that prisoners who have been charged with heinous crimes like murder, rape, dacoity, etc. are not eligible for short-term release. However, because it violated Article 14 of the Indian Constitution, this was overturned in the case of (*Dinesh Kumar v. Govt. of NCT of Delhi*, 2012).

Parole is not recognised as a right in India, despite having administrative value recognition. The decision to grant parole to a particular prisoner is partially in the hands of the prison administration; a prisoner's claim to parole is not absolute.

The parole law in India has recently come under scrutiny thanks to a recent Supreme Court decision in the case of *Asfaq v. State of Rajasthan*. The main lessons to be learned from the judgement are:

A prisoner who has demonstrated good behaviour is granted parole, which comes with the requirement that they continue to report to the authorities on a regular basis. It is merely a temporary reprieve from his punishment; the severity of the original sentence is unaltered.

The following circumstances could lead to parole being granted:

- (i) A member of the prisoner's family has passed away, is seriously ill, or the prisoner himself is seriously ill;
- (ii) The prisoner's own marriage, that of his son, daughter, grandson, granddaughter, brother, sister, sister's son, or daughter is to be celebrated; or
- (iii) The prisoner's temporary release is required for ploughing, sowing, harvesting, or carrying out any other
- (iv) Parole may also be granted based on factors relating to the convict's health.
- (v) Parole can only be granted after a portion of the sentence has already been served.

(vi) If the parolee does not comply with the conditions of his release, he may be sent back to prison to finish his sentence. (*Asfaq v. State of Rajasthan*, 2017)

However, different states have different parole laws, and it is up to the laws of the state in question to decide whether or not parole must be granted in a particular circumstance.

Since there are no parole-related provisions in the Code of Criminal Procedure from 1973 and no uniform parole legislation in India, each state has its own set of laws governing this. As a result, there is some ambiguity surrounding parole-related issues. India lacks a codified parole law, unlike the United States or the United Kingdom, and the only sources of authority for deciding parole-related issues are these statutes and court decisions.

Covid-19 Grant of Parole and the Pandemic

The infectious coronavirus poses a threat to human life. A higher risk exists for those who have diabetes, hypertension, chronic respiratory illnesses, cardiovascular diseases, or are elderly. In densely populated areas, there is a greater risk of this virus spreading. Because of this, inmates all over the country filled out applications for extensions and grants of temporary bail or parole.

Given the state of Indian prisons, a great deal of people were at risk of contracting this deadly virus. In light of this, the Supreme Court of India issued a ruling directing States and Union Territories to release prisoners on parole in accordance with the type of crime they were convicted of committing.

India's prisons are notoriously filthy and overcrowded, making them prime locations for the spread of the virus. The Supreme Court made a significant decision in this regard with its Parole order, but there were some issues that came with it. The incorrect classification system used to determine which prisoners would be eligible for parole is the first and most pressing issue in this regard. If the fundamental reason that caused this situation, i.e. the disease, is taken into consideration, it is important to take into account the age of the prisoners as well as the fact that some of them may be having some underlying diseases that put them at dire risk of getting affected by the virus. According to the order, the prisoners must be released based on the seriousness of the offence they have committed or the prescribed duration of the sentence to be served by them. Despite their age and health issues, this group of prisoners who needs release the most might not be entitled to the same as per the order. They can only be released if they meet the

requirements related to the seriousness of the offence they committed, the extent of the punishment, etc. Furthermore, the order did not even require the state to give the parolees proper transfer facilities.

Prime facie, the order stated that it was up to the states to "determine which class of prisoners can be released on parole." However, it also stated that it was up to the High Courts to determine which category of prisoners must be released, and that decision had to be based "upon the nature of the offence, the number of years to which he or she has been sentenced, or the severity of the offence." (SPECIAL LEAVE PETITION, 2020) With these words, the Supreme Court's order clearly binds the States and High Courts to use the erroneous criterion mentioned above when determining whether to grant parole.

Due to the problems this classification caused, a Public Interest Litigation against it was brought before the Bombay High Court on the grounds that it violated Article 14 of the Indian Constitution. The court's ruling in the case of National Alliance for People's Movements Through its National Convener and Others v. State of Maharashtra AIR 2020 Supreme Court 4448 Through its Additional Chief Secretary and Others becomes significant in this situation. The issue of whether prisoners were entitled to emergency parole as a right in light of the pandemic was considered, and it was determined that the right to emergency parole could not be granted because there was no "sanction of law traceable either to a legislation of the competent legislature, to an order having the force of law which the executive has authority to make, or to a law declared by the Supreme Court binding on all courts". (National Alliance for People's Movements Through its National Convener and Others v. State of Maharashtra, 2020)

India has not faced such a situation as like the pandemic and decongestion of jails was a need for such situations. Therefore, many states have incorporated changes in their parole rules which provides for special parole in the grave situations such natural calamity, pandemic or epidemic. (Rule 13, Rajasthan Prisoners Release on Parole Rules, 2021)

The correctional system of any country has the responsibility for rehabilitation and reformation of offenders so that they can reintegrated into the society. Punishment in form of incarceration does not take away the complete liberty of the prisoner. Therapeutic techniques such as probation and parole play a very important role in the reintegration the individuals in to the society. In the modern era the legislature as well as the prison administration try to execute a therapeutic program but how far it is a success should be

looked upon. The prisoners though being in conviction should not be denied their fundamental rights.

The law for probation is same is same throughout the India as it is governed by the Probation of Offenders Act, 1958 and the judicial discretion is exercised by the courts in granting the same. But the law governing parole is different for each states and subject of administrative discretion. Few states such as Bihar and Rajasthan have parole boards but mostly other states the discretion lies with the Superintendent of Jail and District Magistrate. The Code of Criminal Procedure, 1973 now repealed by the Bharatiya Nagrik Suraksha Sanhita, 2023 are silent on the aspect of Parole. The grant or rejection of different kind of parole i.e. Custody Parole and Regular Parole is subject to many factors such as young age, family events, agricultural objectives, old age or illness of the prisoner, emergency situations. Parole is granted at the discretion of the state authorities, and the process is guided by a combination of rehabilitation goals and the legal provisions for prisoner management.

Parole is not therapeutic techniques which is only in India but an internationally accepted procedure for prisoners. The parole system provides best chances to a prisoner for becoming a law-abiding citizen. The majority of the systems use parole to monitor, rehabilitate and reintegrate offenders while some release offenders without supervision.

The Swedish Prison and Probation Services a specific department of Ministry of Justice oversees parole in Sweden. In Sweden to monitor offender's layman supervisors having background in social work are involved either voluntarily or for fee in the parole system of Sweden and is extremely advantageous. The layman supervisors as opposed to officers involved in the institutional role as they may play a more humane by meeting with the offenders on a weekly basis and offer social support. (Holmberg et., 2012). The Layman supervisors may also be advantageous to reduce the work load of full-time parole officers. Sweden's use of electronic monitoring is seen as highly effective, particularly when used as part of a rehabilitative framework. The focus is less on punitive measures and more on enabling offenders to reintegrate into society while being monitored for safety. This approach is believed to lower recidivism rates, as it provides offenders with a chance to maintain their jobs, family relationships, and social ties while serving their sentences.

The federal government of Canada has delegated decision making authority to the Parole Board of Canada and appointed supervision through Correctional Services Canada. (Bonta et al., 1999). Similar to Sweden Canada also uses electronic monitoring for prisoners who are on probation and parole. Like use of electronic monitoring volunteers and human organisation play a big role in the Canada correctional system. The Canadian parole system has been developed to encourage change and rehabilitation being transparent to offenders through fair treatment.

After Independence Pakistan became a new state and had reinstated the British government probation law related to the criminal justice. The majority of the prisons in Pakistan are overcrowded which contributes to issue like poor health and hygiene, high risk behaviour like suicide, unprotected and forced sexual contact, drug abuse) with a poor prison management that results in corruption, torture, and riots. The state is facing issues for community reintegration and reduction of prison population. The current law governing probation and parole contains no rules for working with crime victims. There is no institutionalised training programme for the staff of the reclamation and probation. The system of prison administration is going through a phase of transition and requires the need of immediate attention for restorative justice for probation and probation.

The system of parole in USA and U.K Both tries strike a balance between public safety with the rehabilitation of offenders, but the approaches to parole, its availability, and its conditions differ significantly between the two countries. While the UK focuses more on rehabilitation and has a more structured system for determining parole eligibility, the U.S. has a more complex and fragmented system due to differing state laws and a strong emphasis on punitive measures. In the United States state parole boards hold public hearings on parole. In the process of determining the grant of parole, the boards conduct interviews with the convicts and asses their criminal records, institutional behaviour and other relevant factors. (U.S. Parole Commission, U.S. Department of Justice). On the other hand, in U.K the parole system has a significant change in parole regulations in 2022 and recommends for an oral hearing via video link or electronic means and also provides for clause holding oral hearings in public in the interest of justice. (Joshua Rozenberg, 2022)

The procedure is different for different states the state of Madhya Pradesh does not provide for a parole board. It functions through the various reports forwarded through

the Superintendent of Jail to the District Magistrate. The researcher in the study had interviews and discussions with prisons personnel including Director General of Prison, superintendent of Jail and Public Welfare officer. As the states are governed by the same law i.e. M.P Leave Rule, 1989. The data was being collected from convicted prisoners of Jabalpur, Katni, Bhopal and Narsinghpur through questionnaire. For the understanding of parole procedures, the researcher has also collected data from the prison personnels of the mentioned jails through questionnaire. For a general understanding for the concept of parole the researcher through questionnaire has collected data from academicians, advocates, judges, researcher and individuals.

Firstly, it was very difficult to collect data for the research study from prisoners and prison personnel. But after the recommendations for my application for permission from Jail Headquarters and permission for the collection of data the researcher had visited the Jails of four different districts of Madhya Pradesh with a questionnaire and had also interviewed prison personnel. The detailed analysis of data has been done in the previous chapters.

As this study focused on exploring various contributing factors for parole, Selection of individual participants for the study is based on purposive sampling as research was conducted on the particular population for the state of Madhya Pradesh who were convicted for offences for which based on the availability and accessibility of the prisoners. A total of 98 prisoners of the Central Jails of Bhopal, Narsinghpur, Jabalpur and District Jail of Katni participated in the study. The last question of the questionnaire was that any other suggestions which you want to give in respect of grant of parole. Not all the prisoners of the prison personnel had given suggestion or recommendation. But some prisoners had the following suggestions mentioned as under:

- The duration for parole to be increased and a prisoner is to be granted four times parole in a year.
- The parole is to be granted after a prisoner had served at least one year of his sentence.
- The procedure for the grant of parole should be made so simple that even a illiterate may also apply for parole easily.
- The application for parole is to be decided in a time bound manner.
- Even online facility should be made to apply for parole.

- Other than Parole granted by District Magistrate, Inspector General of Prisons and emergency parole there has to be procedure in which through counsel a prisoner who is eligible for parole may approach the sessions court for parole and the procedure has to be simple.
- The procedure for parole should be simple, online and unbiased.
- There has to be online portal like MCRA/CRA wherein an applicant or his family members may check his status of acceptance/rejection of parole application.
- In case of emergency parole on the death of family members the Jail Superintendent is to be empowered to grant the parole based on the report of police report which is forwarded by email so that the prisoner may attend the funeral.
- The prisoner to be released on parole on his personal bond or his fixed deposit.
- The paper work for the grant of parole should be reduced and process to be simplified.
- If the application for parole is rejected the prisoner has to wait for one year to apply for parole which takes another 6 months for the grant of parole if approved.

As the prison personnel are very busy in their routine work it was difficult to interact with them and gather data/information from them. But some the prison personnel have cooperated and the suggestions given by them is as under:

- The prisoner to be 3 times parole a year with the leave of 25 days.
- The parole to be granted 4 times in a year.
- To simplify the rules and procedure for parole.
- In case of death of a family members the procedure for parole is to be simplified.
- As the prisoner is in jail the report of the Jail Superintendent is to be considered instead of the police report so that the applications may be decided within reasonable time.
- At present a prisoner may be granted parole for 42 days which may be extended to 56 days.
- The prisoners are in need of proper legal guidance for parole.

- Instead of granting parole to a prisoner in a year other than the main accused parole to be converted into temporary release of the prisoner with a condition that the prisoner to report to the police station and based upon the recommendations of the police station his release to be continued as this would reduce financial burden on the state.

As per the suggestions received from 322 respondents some of the respondents had given valuable inputs for the research study. Some of the valuable inputs from the respondents is as under:

- Parole is misused by many influential offenders; better guidelines are required to be developed to check that. The biasness of the jail officials in granting parole should also be scrutinized.
- Public Hearing must be done in non bailable offences.
- Parole is a vital component of the criminal justice system in India, offering numerous benefits in terms of rehabilitation, humanitarian support, and prison management. However, to maximize its effectiveness and fairness, it is crucial to address the issues of arbitrary decision-making, lack of standardized procedures, reoffending risks, and inadequate monitoring. Reforms aimed at creating a more consistent and transparent parole system would enhance its role in promoting justice and social reintegration.
- Parole is a very important aspect of the criminal justice system. But in the recent years the wealthy and powerful people are using parole to avoid a person's sentence. Therefore, the mechanism should be made to check that not only wealthy people get parole but actual needy person must get it.
- Parole should be given judiciously
- That political influences are the biggest factor in granting parole and there must be some check and balance over those paroles and some limitations also while granting them.
- Parole is not a big issue under trial prisoner in jail is a big issue overcrowding of jail is a big issue and specially the corruption of jail authority is a big issue who only works for money and provides facilities to the rich prisoner.
- there are lot of loopholes in the system.

- When granting a parole it is necessary that parolee livelihood should be secured & they should be given some induction how to tackle their day to day interaction with society thereafter, it is very necessary that he/she should speak good words and this can only be done if parolee has food to eat.
- For the purpose of grant of parole restorative justice practices, improved post released support, innovations such as technology-based risk assessment could be considered.
- Parole and probation require robust mechanism for Observation and for this special Officers are required similar to US. US has a separate department for managing parole and probations, India needs to follow same and it should be ensured that applications of parole to be treated liberally as per various judgement of Supreme Court of India.
- The system of parole has breakdown and person with pecuniary and political influence cut down the throat of equity and justice.
- Having appeals for it may again be a pressure on courts but this unguided discretion must be checked.
- Post release support and monitoring should also be strengthened.

Based upon the recommendations of the respondents who from different professions which includes, Judges, Academicians, Advocates, Students, Researchers, and individuals it is very apparent that system of parole has loop holes and needs amendments. The mechanism for the grant of parole/temporary leave seems to be arbitrary in which the role of political and other influences plays significant role. But also, the societal interest is also to be considered to avoid the risk of escape and further crime being committed by the parolee. Technology can also play a significant role as it gets very difficult for a parolee to even arrange for surety for his parole.

The system of parole/temporary release may function even without the presence of a jail or other prison authorities. It is not the only mechanism which is responsible for relieving the prison population strain. It is that phase when the criminal reintegrates into the society. (Thomson Douglas, 2013)

The mechanism of parole is subject to the political and other factors which has hindered the effective administration of parole system. This has resulted in mechanical functioning of the executive authorities while exercising this quasi-judicial function and

granting parole/temporary release to such prisoners who are eligible but not suitable for parole and while denying parole to such prisoners who are eligible and suitable for the grant of parole. The denial of parole to such prisoners questions the arbitrary exercise of discretion by the administrative bodies.

Many states have adopted for the constitution of parole board's such as Bihar, Rajasthan but still the functioning is being done in the same manner by the executive authorities which defeats the purpose of this rehabilitative process.

Article 14 of the constitution provides for equality before law and equal protection of law which may be further interpreted in the light that like should be treated alike and unequal would have to be treated unequally. As Equality prohibits discrimination the authorities who are granting parole should consider the principles of equality at the time when they are deciding the application for parole/temporary release of the prisoner as if this is not being followed the convicts whose application get rejected tend to be mentally affected which leads to the commission of jail offences.

As Article 14 of the constitution provides for equality before law on the other hand Article 21 of the constitution of India protects the personal life liberty of individuals. With respect to the rights of the prisoner the Supreme Court in *State of A.P. v. Challa Ramkrishna Reddy*, (2000) 5 SCC 712 observed as under

“Right to life is one of the basic human rights. It is guaranteed to every person by Article 21 of the Constitution and not even the State has the authority to violate that right. A prisoner, be he a convict or undertrial or a detenu, does not cease to be a human being. Even when lodged in the jail, he continues to enjoy all his fundamental rights including the right to life guaranteed to him under the Constitution. On being convicted of crime and deprived of their liberty in accordance with the procedure established by law, prisoners still retain the residue of constitutional rights.”(*A.P. v. Challa Ramkrishna Reddy*, 2000)

The constitutional courts have always expanded the scope of Article 21 even to protect the basic human rights of prisoners. Recently on 3rd June, 2024 the Karnataka High Court while deciding a writ petition allowed parole to a life convict claimed by his wife on the ground that she is deprived of her right of progeny. (*Neetha G. v The State of Karnataka*, 2024).

The Delhi High Court on 26th April, 2024 has granted two weeks parole to a man who was sentenced to life imprisonment and was convicted for murder and causing disappearance of evidence or giving false information for attending his engagement ceremony and marriage. (Rahul Dev v. State, 2024)

In a plea filed by a life convict, who sought parole to meet his son, who has secured admission in a university in Australia and is expected to fly out of India on July 22 the Bombay High Court had made the observation that if parole may be granted in emergency situations or for marriages it may also be granted for 'Happy Moments'. (Vivek Krishnamurari Shrivastav v. State of Maharashtra and Ors, 2024)

As stated by Mahatma Gandhiji "Crime is the outcome of a diseased mind and jail must have an environment of hospital for treatment and care" As prisons is in the state list, the states have their own rules and regulations for the superintendence and management of the prisons. The Bureau of Police Research and Development Ministry of Home Affairs Government of India has provided for a Model Prison Manual 2016 for the states. The Chapter XIX of the Model Prison Manual 2016 provides for the objectives of releasing a prisoner on parole and furlough and which are as under:

- i) To enable the inmate to maintain continuity with his family life and deal with familial and social matters,
 - ii) To save him from the evil effects of continuous long prison life,
 - iii) To enable him to maintain and develop his self-confidence,
 - iv) To enable him to develop constructive hope and active interest in life,
 - v) To help him remain in touch with the developments in the outside world,
 - vi) To help him remain physiologically and psychologically healthy,
 - vii) To enable him to overcome/ recover from the stress and evil effects of incarceration, and
 - viii) To motivate him to maintain good prison and disciplined in the prison.
- (The Model Prison Manual, 2016)

The above objectives provide for a clear understanding that the therapeutic technique of parole is not meant for fulfilment of the purpose of imprisonment which is not deterrent, retributive or custodial but reformatory and rehabilitative.

The authorities should take into consideration the constitutional and legal values as provided in the law of the land with equal protection of laws as justice should be done

but seen to be done as “Injustice anywhere is a threat to justice everywhere” with a uniform scheme of Parole is to be followed in the country.

Recommendations

Need for Establishment for Parole Board

- i. There is a need for proper social-economic reintegration, methodical rehabilitation and to every prisoner upon release by the prison authority.
- ii. The authority to grant parole may be entrusted to a parole board instead of a single functionary. (Jayant Veerappa Shetty and Another vs State of Maharashtra and Others, 1986) As giving sole authority to an executive magistrate who already involved in many functions will not inspire confidence in the minds of prisoners and family members which a board of members with members of various fields would imbibe.

Constitution of Parole Board

- i. The decision for the grant of parole is to be decided by a Board of Parole and the board of parole to consists of a judicial officer of the rank of District and Session Judge, District Magistrate, Superintendent of Police, a psychiatrist and a member nominated by the state who has knowledge and experience of the supervision and treatment of offenders.

Functioning of the Parole Board

- i. The Board of Parole to hear applications once in two weeks or as it thinks fit depending upon the number of applications received to the Board.
- ii. As the societal interest is to be balanced with the prisoners’ interest and this study reveals that misuse of parole by the parolees. In the public interest at large the Parole Board other than considering the recommendations of the superintendent of jail, report of the police officer, recommendation of the sarpanch/parshad, objections of the victim, the Board should also refer the observations of the court while convicting the offender.
- iii. If the parole board forms an opinion that the report submitted to it is without proper due diligence then the parole board should be given deemed power of civil court for making further inquiry. This would give discretion to the parole board to not sit as a post man for deciding the parole application.

Public hearing for the victim's family.

- i. As discussed in this study the role of the sarpanch/parshad also plays apart in the report submitted to the executive authority. For an unbiased approach of the recommendation of the sarpanch/parshad it is suggested to have a public hearing of the prisoner in the village which to also include the victim's family.
- ii. The States of US and UK allow for public hearing it is recommended, from case to case basis if parole is granted to the prisoner the decision should be provided to the victim/victims' family if they have raised objection to grant of parole at the public hearing and shall be subject to judicial review before High Court within 15 days of the receiving of the decision.

Use of Technology

- i. The supervisory mechanism in India is not appropriate for parolees as he himself has to give his attendance to the nearest police station. The visit of parolee as per the conditions stipulated acts as an hinderance of achieving the purpose of parole as parole is a process of reformation and rehabilitation. Considering the past records, conduct, antecedents of the parolee in certain cases the use of technology may play as an important tool for the supervision of the parolee.
- ii. Like Sweden and Canada, the system of electronic monitoring to be introduced.
- iii. The recommendation from the sarpanch/parshad and thana prabhari/police station takes a lot of time. The recommendations of the report to be forwarded to the Parole Board via email for expeditious disposal of the application.

Legal Aid & Revisional Jurisdiction of Sessions Court

- i. The State and District Legal Services Authority should play an active part in the legal awareness of the prisoner for his parole application and even what recourses he has if his parole application gets rejected.
- ii. With respect to denial of emergency parole on the grounds of his death of family members, near relatives the revision should be allowed in the session's court.

Other Recommendations

- i. If a parolee violated the conditions of parole or has committed an offence during his parole which is of serious nature then he should not be allowed for regular parole for 3 years.
- ii. Parole jumpers should not be permitted for any parole for a period of 3 years but there may be exceptions from case to case to basis. The decision of Parole Board to be final and not subject to appeal.
- iii. A prisoner should not be eligible for regular parole if he has convicted a heinous crime unless he has served a sentence for 5 years and in other cases served sentence for 3 years.
- iv. A uniform scheme of Parole is to be followed in the country.
- v. Considering the recommendation of prison personnel it is further recommended that instead of granting parole to a prisoner in a year other than the main accused regular parole may be converted into permanent parole of the prisoner with a condition that the prisoner to report to the Probation Officer/Parole Officer or any such authority in consultation with the police station having jurisdiction and based upon the recommendations of the Probation Officer/Parole Officer his release to be continued as this would reduce financial burden on the state as well reduce the overcrowding of prisoners.
- vi. The law governing parole should also be applicable to undertrial prisoners.

BIBLIOGRAPHY

Primary Sources

- The Constitution of India, 1949
- The Code of Criminal Procedure, 1973
- The Bhartiya Nagarik Suraksha Sanhita, 2023
- The Indian Penal Code, 1860
- The Bhartiya Nyaya Sanhita, 2023
- The Prisons Act, 1894
- The Delhi Prison Act, 2000
- Punjab Prisoner's Probational Release for Good Conduct Act, 1926
- The Prisoners Act, 1900
- The Himachal Pradesh Good Conduct Prisoners (Temporary Release) Act, 1968
- M.P. Prisoners Leave Rules, 1989
- Bombay Furlough & Parole Rules, 1959
- Haryana Good Conduct Prisoners (Temporary Release) Act, 1988
- The Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974
- Narcotic Drugs and Psychotropic Substances, 1985
- The Army Act, 1950
- Maintenance of Internal Security Act, 1971
- Protection of Children from Sexual Offences Act, 2012
- RAJASTHAN PRISONERS RELEASE ON PAROLE RULES, 1958,
- THE PRISONS (BOMBAY FURLOUGH AND PARLOE) RULES) 1959
- U.P. (Suspension of Sentence of Prisoners) Rules, 2007.
- The Delhi Prison Rules, 2018

Secondary Sources

Books

- Ahmed Siddique (1997), *Criminology: Problems & Perspectives*, 4th ed, EBC
- Allen, F. A., 1981, *The Decline of the Rehabilitative Ideal*. New Haven: Yale University Press
- Altekar, A. S. (1958). *State and Government of Ancient India*. Jainendra Press.

- Bent, A. E., & Rossum, R. A. (1976). *Police Criminal Justice and the Community*, HarperCollins Publishers
- Bhattacharya, Sunil K. (2000). *Juvenile Justice - An Indian Scenario* (1st ed.). Regency Publication, New Delhi
- Bhushan, V. (1970). *Prison Administration in India*, S. Chand & Co.
- Branham, V. C., & Keetash, S. B. (1949). *Encyclopedia of Criminology* (p. 285).
- Chakrabarti, N. K. (1997). *Administration of Criminal Justice: Institutional Corrections*, Deep and Deep Publications
- Chakrabarti, N. K. (1999), *Probation Services in the Administration of Criminal Justice*, 1st edn., 1999, Deep & Deep Publication Pvt. Ltd, New Delhi, p-8
- Chowdhury, R. N. (2002). *Indian Prison Laws and Correction of Prisoners*. Deep and Deep Publication.
- Das, Shukla , *Crime and Punishment in Ancient India*, Abhinav Publications p-57, 1997
- Datir, R. N. (1978). *Prison as a Social System*. Popular Press Prakashan.
- *Encyclopedia Americana* (1964). Americana Corp.
- Garner, B. A., & Black, H. C. (1990). *Black's law dictionary* (6th ed.).
- Ghosh, S. (1992). *Open Prisons and the Inmates*. Mittal Publications
- Graycar, A., & Grabosky, P. (2002). *The Cambridge Handbook of Australian Criminology*. Cambridge University Press.
- Guha Roy, J. (1989). *Prison and Society: A Study of the Indian Jail System*. Gain Publications.
- Haikerwal, B. S. (1934). *Economic and Social Aspect of Crimes in India*. Allen and Unwin.
- Halsbury's Laws of India. (2006). *Halsbury's Laws of India (Vol. 5(1), p. 105.412)*.
- Jain, M. P. (1997). *Outlines of Indian Legal History* (5th ed., repr., pp. 363-389).;
- Jindal, V. K. (1987). *Commentary on Punjab Jail Manual* (1st ed., p. 516).
- Krishna Iyer, V. R. (2010). *Leaves from my Personal Life*. (Reprint ed.). p. 206. Gyan Publishing House.
- Kulushreshtha, V. D. (1995). *Landmark in Indian Legal and Constitutional History* (7th ed., pp. 215-225)..
- Kumkum, C. (1983). *The Indian Jail – A Contemporary Document*. Vikas Publication House.

- Madan, G. R. (1981). *Indian Social Problems* (7th ed., Vol. 1). Allied Publishers.
- Mahaworker, M. B. (2006). *Prison Management: Problems and Solutions*. Kalpaz Publications.
- Mandelbaum, David G. (1998). *Society in India, Vol-I*. Popular Prakashan Ltd, Bombay, p. 221.1
- Martin, Elizabeth A, 2003, *In A Dictionary of Law* (5th ed.), Oxford University Press.
- Menon, N.R Madhavan. *Criminal Justice India Series, West Bengal, 2001, Vol I*, Allied Publishers Pvt.Ltd, New Delhi
- Mohanty Amarendra & Hazary Narayan. *Indian Prison Systems*, APH Publishing, 1990
- Paranjape, N. V. (2001). *Criminology and Penology* (11th ed.). Central Law Publications.
- Paton, G. W., & Derham, D. P. (1972). *A textbook of jurisprudence ... 4th ed.*, Clarendon Press.
- Porter, N. D. (2021). *Successes in Criminal Legal Reforms. The Sentencing Project*.
- Prakash, S. (1976). *History of Indian prison system. The Journal of the Correctional Work*, No. XXII. Jail Training School.
- Pranjape, N. V. (2003). *Criminology & Penology* (11th ed., Central Law Publications
- Probation and Parole: *History, Goals, and Decision-Making*. Encyclopaedia of Crime and Justice. Retrieved February 10, 2025
- Puranik, A. B. (1992). *The Rights of Prisoners in Jail*. C.T.J. Publications.
- Rajan, V. N. (1995). *Victimology in India* (1st ed.). Ashish Publishing House, New Delhi, p. 14.4
- Ramanatha Aiyar, P. (2010). *The Major Law Lexicon*. (4th ed.). Lexis-Nexis India.
- S.N. Mishra. (2009). *The Code of Criminal Procedure, 1973* (1st ed.). p. 579.
- Saini, Kamal. (2000). *Police Investigations* (1st ed.). Deep & Deep Publications Pvt Ltd, New Delhi,
- Sangar, S. P. (1967). *Crime and Punishment in Mughal India*. Sterling.
- Sen, P.K., (2015) *Penology old and new*, Facsimile Publisher p. 110
- Siddique, A. (2011). *Criminology & Penology* (6th ed., repr.), EBC p. 243.

- Singh, I. J. (1979). *Indian Prison: A Sociological Enquiry*. Concept Publishing Company.
- Srivastava, S. P. (1987). *Parole: The Indian Perspectives*. *Indian Journal of Criminology and Criminalistics*, 7, 104..
- Sutherland and Cressey, *Principles of Criminology*, 566-589 (6 ed. 1968). Surjeet Publications
- Trehan, A. (2011). *Penology & Victimology* (1st ed.). Shree Ram Law House (pp. 207).
- Upadya, V. (1978). *A Study of Hindu Criminology*. Chaukhambha Orientalia.
- Verma, P. (1963). *Crime, Criminal and Convict*. Ram Prasad Publishers.

Articles

- Andrews, D. A., Bonta, J., & Hoge, R. D. (1990). Classification for effective rehabilitation: Rediscovering psychology. *Criminal Justice and Behavior*, 17, 19-52
- Andrews, D. A., Bonta, J., & Wormith, J. S. (2011). The risk-need-responsivity (RNR) model: Does adding the good lives model contribute to effective crime prevention? *Criminal Justice and Behavior*, 38(7), 735-755..
- Balasubrahmanyam, V. (2005). Essays on Indian Penal Code - Punishment. *The Indian Law Institute*.
- Burkhardt, B. C., & Connor, B. T. (2016). Durkheim, Punishment, and Prison Privatization. *Social Currents*, 3(1), 84-99
- Bartollas, C., & Miller, S. J. (1978). The Juvenile Offender: Control, Correction, and Treatment. *Holbrook Press Allyn and Bacon, Inc.*.
- Bayer, P., Pintoff, R., & Pozen, D. E. (2003). Building criminal capital behind bars: Social learning in juvenile corrections. Center Discussion Papers, Economic Growth Center, *Yale University*. Paper 864..
- Belfrage, H., & Strand, S. (2012). Measuring the outcome of structured spousal violence risk assessments using the B-SAFER: Risk in relation to recidivism and intervention. *Behavioral Sciences and the Law*, 30, 420-430..
- Pachauri, S. K. (1994). History of Prison Administration in India in 19th Century : Human Rights in Retrospect. *Proceedings of the Indian History Congress*, 55, 492–498. <http://www.jstor.org/stable/44143401>

- Black, D. M., Steinbuch, M., Palermo, L., Dargent-Molina, P., Lindsay, R., Hoseyni, M. S., & Johnell, O. (2001). An assessment tool for predicting fracture risk in postmenopausal women. *Osteoporosis International*, 12, 519-528.
- Bonta, J., Bourgon, G., Jesseman, R., & Yessine, A. K. (2005). *Pre-sentence reports in Canada*. Public Safety and Emergency Preparedness, Canada.
- Bonta, J., Wallace-Capretta, S., & Rooney, J. (1999). *Electronic monitoring in Canada*. Public Works and Government Services Canada.
- Burleigh, E. N. (1921). Probation and Parole. Report of the Committee of the American Prison Association. *Journal of the American Institute of Criminal Law and Criminology*, 12(3), 320-329. Retrieved from Northwestern University Pritzker School of Law.
- Canals, J. M. (1960). Classicism, positivism and social defense. *Journal of Law and Criminology*, 50(6), 541-550.
- Cullen, F. T., & Gendreau, P. (2001). From nothing works to what works: Changing professional ideology in the 21st century. *The Prison Journal*, 81(3), 313-338..
- Devakar. (1985). Prisons and Prison Reforms in British India. Social Defense, 20(79), 12. *National Institute of Social Defense*, Ministry of Social Welfare.
- Doll, E. A. (1927). Some Principles of Correctional Treatment. *Journal of the American Institute of Criminal Law and Criminology*, 18(2), 197-206. Northwestern University Pritzker School of Law.
- Eichhorn, W. H. (1920). Method and Results of Parole. *Journal of the American Institute of Criminal Law and Criminology*, 11(3), 368-374. Northwestern University Pritzker School of Law.
- Fulton, B., Stichman, A., Travis, L., & Latessa, E. (1997). Moderating probation and parole officer attitudes to achieve desired outcomes. *The Prison Journal*, 77(3), 295-312..
- Gayman, M. D., & Bradley, M. S. (2013). Organizational climate, work stress, and depressive symptoms among probation and parole officers. *Criminal Justice Studies*, 26(3), 326-346..
- Ghosh, Sabyasachi, (2008). *Probation and Parole as Methods of Mainstreaming Criminals: A Socio-Legal Analysis from Indian Perspective*
- Justice Policy Institute (2011). *Finding direction: expanding criminal justice options by considering policies of other nations*

- Lindsey, E. (1925). Historical Sketch of the Indeterminate Sentence and Parole System. *Journal of the American Institute of Criminal Law and Criminology*, 16(1), 9-69.
- Markley, C. W. (1973). Furlough programs and conjugal visiting in adult correctional institutions. *Federal Probation*, 37(1), 19-26.
- McCavitt, C. M. (2013). Eugenics and human rights in Canada: The Alberta Sexual Sterilization Act of 1928. *Journal of Peace and Conflict*, 19(4), 362-366.
- Motiuk, L. (1994). Classification for correctional programming: The offender intake assessment (OIA) process. *Research Branch, Correctional Service Canada*.
- Renzema, M., & Mayo-Wilson, E. (2005). Can electronic monitoring reduce crime for moderate to high-risk offenders? *Journal of Experimental Criminology*, 1, 1-23..
- Vibhute, K. I. (2016). Right to human dignity of convict under shadow of death and freedoms behind the bars in India: A reflective perception. *Journal of Indian Law Institute*, 58(1), 15–16.
- S&A Law Offices. (2020, March 24). What is Parole?
- Walters, S. T., Vader, A. M., Nguyen, N., Harris, T. R., & Eells, J. (2010). Motivational interviewing as a supervision strategy in probation: A randomized effectiveness trial. *Journal of Offender Rehabilitation*, 49(5), 309-323..
- Whitehead, J. T., & Lindquist, C. A. (1992). Determinants of probation and parole officer professional orientation. *Journal of Criminal Justice*, 20(20), 13-24..

Reports

- Aday, R. H. (1976). Institutional Dependency: A theory of ageing in prison (Doctoral dissertation). Oklahoma State University.
- All India Committee on Jail Reforms. (1983). *Report of All India Committee on Jail Reforms*, 1980-83.
- All India Committee on Prison Reforms (Mulla Committee). (1983). *Report of the All India Committee on Prison Reforms*, 1980-83 (Vol. I, Chapter VIII, Security and Discipline, p. 97, paras. 8.1-8.4).

- All India Committee on Prison Reforms (Mulla Committee). (1983). *Report of the All India Committee on Prison Reforms, 1980-83* (Vol. I, Chapter X, Treatment Programmes, p. 127, para. 10.1).
- All India Committee on Prison Reforms (Mulla Committee). (1983). *Report of the All India Committee on Prison Reforms, 1980-83* (Vol. I, Chapter X, Treatment Programmes, p. 127, para. 10.5).
- All India Committee on Prison Reforms (Mulla Committee). (1983). *Report of the All India Committee on Prison Reforms, 1980-83* (Vol. I, Chapter X, Treatment Programmes, p. 129, para. 10.7).
- Australian Institute of Criminology. (2004). *Standard Guidelines for Corrections in Australia*.
- Commonwealth Human Rights Initiative. (n.d.). *Report of Workshop on "Prison and Human Rights"*, 1988, Bhopal.
- National Crime Records Bureau. (2021). *Prison Statistics India – 2021 Executive Summary*.
- Orissa Jail Reforms Committee. (1981). Report.
- Report of the All India Jail Manual Committee. (1959). *Report of the All India Jail Manual Committee 1957-59*.
- Report of the Working Group on Prisons in the Country. (1973). *Report of the Working Group on Prisons in the Country, 1972-73*.
- West Bengal Human Rights Commission. (1998-1999). *Annual Report*. Bhavani Bhavan, Kolkata, p. 127.

WEB SOURCES

- Seconline
- Manupatra
- Jstor
- Heinoline
- Lexis Nexis
- Times of India
- Dainik Bhaskar
- Telegraph India
- Hindustan Times
- Republic World

LIST OF PUBLICATIONS

Name: Gautam Gupta

Orcid Id: 0000-0001-8493-2435

- Gupta, G., & Dimri, S. (2023). Public Hearing in Parole: A Comparative Analysis. *Dehradun Law Review*, 15(1), 77–86.
- Gupta, G., & Dimri, S. (2023). The effect of COVID-19 on the law relating to parole: A judicial analysis. *Shodhak: A Journal of Historical Research*, 13(9), 201–215.

Gautam Gupta

**A CRITICAL ANALYSIS OF GRANT OF PAROLE BY
QUASI-JUDICIAL AUTHORITIES WITH SPECIAL REFERENCE ...**

- Quick Submit
- Quick Submit
- UPES: University of Tomorrow

Document Details

Submission ID	trn:oid::1:3323061448	228 Pages
Submission Date	Aug 28, 2025, 5:27 PM GMT+5:30	78,739 Words
Download Date	Aug 28, 2025, 5:38 PM GMT+5:30	403,354 Characters
File Name	final_Thesis_GautamGupta_26.08.2025.pdf	
File Size	1.2 MB	

2% Overall Similarity

The combined total of all matches, including overlapping sources, for each database.

Filtered from the Report

- Bibliography
- Quoted Text
- Small Matches (less than 14 words)

Match Groups

-  **51 Not Cited or Quoted 2%**
Matches with neither in-text citation nor quotation marks
-  **11 Missing Quotations 0%**
Matches that are still very similar to source material
-  **0 Missing Citation 0%**
Matches that have quotation marks, but no in-text citation
-  **0 Cited and Quoted 0%**
Matches with in-text citation present, but no quotation marks

Top Sources

- 2%  Internet sources
- 1%  Publications
- 1%  Submitted works (Student Papers)

Integrity Flags

0 Integrity Flags for Review

No suspicious text manipulations found.

Our system's algorithms look deeply at a document for any inconsistencies that would set it apart from a normal submission. If we notice something strange, we flag it for you to review.

A Flag is not necessarily an indicator of a problem. However, we'd recommend you focus your attention there for further review.