Chapter 3

Legislative Approach & Administrative Aspects
3.1 LEGISLATIVE APPROACH

Parole is a therapeutic technique for the reformation of criminals. The technique needs to be used with caution because it is applied against those who have been convicted by the courts of law. This Chapter takes into account the legal provisions on parole in India and examines their sufficiency in granting or refusing to grant parole.

3.1.1 Background

Following the legislative efforts in other countries, legislative provisions on parole and other analogous techniques, such as, furlough, probation etc. has been made in India as well. Parole, actually is a direct consequence of reformistic movements in India regarding prisons. Prison reforms though were not the product of any social movement. The worst conditions prevailing in prisons and increasing importance of reformative treatment to prisoners were responsible for them. Parole is fully in conformity with the existing penal laws.

Prof. Pranjape observes:

It must be accepted that post Independence era in India brought in its wake a growing realization of the need of change in attitude towards the treatment of
offenders. With advanced knowledge of human behavior, the role of psycho-social environment in the correctional field cannot be underestimated.¹

Thus, parole occupies a significant place in the correctional treatment of offenders. In other countries also, there are sufficient legal provisions on parole. The objective of parole, as internationally understood is realized in this country through the review of sentences undertaken in accordance with the social enactments, rules or regulations formulated by the Government.²

Thus, parole and other reformative techniques, such as, furlough, annual leave etc. have universal recognition.

3.1.2 Legislative History

With the end of first quarter of twentieth century many Good Conduct Laws were passed in India for the release of prisoners under the spell of reformative philosophy. The Punjab was the first state when the Punjab Prisoners Probational Release for Good Conduct Act was passed in 1926. The Act provided for the conditional release from prison of good conduct prisoners in certain cases before the completion of the terms of imprisonment to which they had been sentenced.³

Subsequently, Good Conduct Legislations were also passed by other provinces such as, by Assam (1938), United Provinces (UP) (1938), and the Central Provinces and Berar (1939).^4

The Uttar Pradesh Prisoner's Release on Probation Act, 1938, also provided for the conditional release of prisoners from prison before the completion of their term of imprisonment.^5 The Government by licence permitted the release of any prisoner, if satisfied from his conduct in the prison. The Government would place him under the supervision of a Government officer or any person or secular institution professing the same religion as the prisoner and anyone willing to take charge of him. Any person escaping from supervision or failing to return to prison upon revocation of any licence was to be punished with imprisonment for further term of two years or fine up to Rs. 2,000/- or both in addition to serve the remaining unexpired portion of the original sentence.^6

The Uttar Pradesh Government also made ticket of leave (Release) Rule under Section 401 of the old Code of Criminal Procedure in 1950 (now repealed). Under these rules any prisoner was apply to the State Government for release except in the cases of certain offences, such as, offences against the State and relating to the Indian Armed forces etc. Any prisoner who had

^5 Id.at 141.
^6 Ibid.
served three years of his sentence might be released on a personal bond with sureties for a period not exceeding a month. The application was to be sent to the Inspector General of Prison through the District Magistrate and the case was to be finally considered by a Board of release. If the Board gave its consent the State Government then issued the ticket in triplicate with the appointment of guardian who might be a Government servant or other person or secular institution or society or probation officer. The Guardian took charge of such prisoner and it was his duty to look after the conduct of the prisoner and to ensure that the conditions of the ticket were fulfilled.  

In case of breach of conditions, the person in-charge might report to the District Magistrate who on receiving the information of any breach of conditions of ticket was to summon the prisoner and after hearing him if he appeared, would recommend to the State Government whether the ticket should be revoked. In case of revocation of ticket, District Magistrate was to make order of his arrest and detention in prison pending the orders of the State Government.

Such a temporary release was also available under the central provinces and Berar Prisoner's Act of 1939. Under this Act, any prisoner serving a sentence of not less than three years could be released for a period not exceeding ten days a year under certain conditions.

---

7 See Sec. 401, The Code of Criminal Procedure, 1898 (Now repealed).
Many Acts have touched the subject of prison reforms. The Prison’s Act, 1894 was passed to amend the law relating to the prisons. Section 59 of the Prisons Act, 1894 becomes important in this connection. Section 59 confers power on the State Government to make rules, consistent with the Act. The Prisoner’s Act, 1900 was also passed to consolidate the law relating to the prisoner’s confined by the order of the court.

The Punjab Good Conduct Prisoner’s (Temporary Release) Act, 1962 was passed to provide for the temporary release of prisoner’s for good conduct on certain conditions. Thereafter, the Himachal Pradesh Good Conduct Prisoners (Temporary Release) Act, 1968 was passed to provide for the temporary release of prisoners for good conduct on certain conditions. The Act consisted of 11 sections.

The Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 was also enacted to provide for temporary release of prisoner’s for good conduct on certain conditions. The West Bengal correctional services Act, 1992 was passed by the West Bengal Legislature to amend and consolidate the law relating to

---

8 The Prisons Act, 1894. The Act was passed to consolidate the Law relating to prisoner’s confined in Prisons by the order of the court.
9 For details see, Id. Section 59.
10 The Prisoners Act, 1900.
prisons and persons detained in West Bengal. It extends to the whole of West Bengal.\textsuperscript{14}

3.1.3 Present Legal Position

The evolution of law on reformatory techniques such as parole, furlough etc., appears to be criss-cross. The present section examines the legal position on parole and analogous techniques. It takes into account those provisions which are directly or indirectly relevant in the operation of such techniques.

3.1.4 Constitutional Provisions

Problem of parole should also be viewed from constitutional perspective. There are certain provisions in the constitution which are concerned with Prisons, Prisoners and Prison reforms. Hence, this sub-section examines their relevancy with reference to parole.

The Legislative Power of the State under Entry 4 List II of Seventh Schedule to the Constitution can deal only with prisons and prisoners, never with truncation of judicial sentences.\textsuperscript{15} The Topic of Prisons and Prisoner's do not cover release by way of reduction of the sentences itself. It belongs to the criminal procedure in Entry 2 of List III although when the sentence is for

\begin{itemize}
  \item [\textsuperscript{14}] The West Bengal Correctional Services Act, 1992.
  \item [\textsuperscript{15}] List II Entry 4, The Constitution of India, 1950; See, also \textit{Maru Ram V. UOI} AIR 1980 SC 2147 (2157-58.)
\end{itemize}
a fixed term and remission plus the period undergone equal that the prisoner may win his freedom.\textsuperscript{16}

One principle well established in our Constitutional Jurisprudence is that all power is trust and its arbitrary exercise is ultra-virus. It follows that while the state may under Section 432 of the Criminal Procedure Code, 1973 and Article 161\textsuperscript{17} of the constitution enjoy the power to grant parole, partial release, remission, suspension and premature termination of imprisonment. This exercise must not be arbitrary and ever governed by sound guidelines.\textsuperscript{18}

The mood and temper of our constitution certify that arbitrary cruelty to the prisoner and negative attitude to reformation of the Individual are obnoxious.\textsuperscript{19}

3.1.5 Provisions under the Code of Criminal Procedure

Once a sentence has been imposed, the only way to terminate it before the stipulated term is by action under Sections 432, 433 of the Criminal Procedure Code, 1973 or Article 72 or 161 of the constitution if the later power under the constitution is

\textsuperscript{16} Id. List III, Entry 2.

\textsuperscript{17} Article 161, The Constitution of India, 1950 ran as “The Governor shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commit the sentence of any person convicted of any offence against any law relating to matters to which the executive power of the state extends. The Executive Power of the state extends to the matters with respect to which the legislature of the state has power to make Laws.”

\textsuperscript{18} V.R. Krishna Iyer, \textit{Leaves from my Personal Life}, 206 (repr. 2010). See, also \textit{Maru Ram V. UOI} AIR 1980, 2147.

\textsuperscript{19} \textit{Maru Ram V. UOI} AIR 1980, 2147 (2164).
not invoked, the only source is power under Sections 432 and 433.\footnote{Id. at 2157.}

After pardon the accused is absolved of punishment and is deemed to be not guilty of the offence. But the remission or suspension of sentence does not have that effect. An order of remission or suspension does not in any way interfere with the order of the court. It affects only the execution of the sentence passed by the court and frees the convicted person from his liability to undergo the full term of imprisonment inflicted by the court, but the order of conviction and sentence passed by the court still stands as it was.\footnote{S.N.Mishra, The Code of Criminal Procedure, 1973, 579, (16th ed. 2009). See, also Sarat Chandra V. Khagendra Nath, AIR 1961 SC 534.}

Section 401 of the old Criminal Procedure Code, 1898 dealt with power to suspend or remit sentences. It provided that when any person had been sentenced to punishment for an offence, the appropriate Government at any time with or without conditions should suspend the execution of his sentence or remit the whole or any part of the punishment to which he had been sentenced, if an application was made to the appropriate Government for the suspension or remission of a sentence. The appropriate Government would require the Presiding Judge of the court by which the conviction was confirmed to state his opinion as to whether the application should be granted or refused. If any of the condition was not fulfilled on which a sentence had been
suspended, the appropriate Government had the power to cancel the suspension or remission and thereupon the person in whose favour the sentence had been suspended or remitted might be arrested by any police officer without warrant and remanded to undergo the unexpired portion of the sentence. 22

Section 402 of the old Criminal Procedure Code 1898, dealt with the power to commute the punishment. According to it, the appropriate Government might, without the consent of the person sentenced, commute anyone of the following sentences for any other mentioned after it: death transportation, imprisonment for life, rigorous imprisonment for a term not exceeding that to which he might had been sentenced, simple imprisonment for a like term, fine. 23

In the Code of Criminal Procedure, 1973 there are certain provisions. Section 432 of the new Criminal Procedure Code, 1973, which is analogous to the Section 401 of the old code, 1898, deals with the power to suspend or remit sentences. It confers on the appropriate Government the power to suspend the execution of sentence or remit the whole or part of the sentence with or without conditions. Whenever application is made to the appropriate Government for the suspension or remission of the sentence, the Government may require the presiding Judge of the

---

22 Section 401, The Criminal Procedure Code, 1898 (Now Repealed).
23 Id. Section 402.
court before or by which the sentence was confirmed, his opinion as to whether the application should be granted or refused. If any condition is not fulfilled, the appropriate Government may cancel the suspension or remission, and thereupon the person in whose favour the sentence has been suspended or remitted, may be arrested by any police officer without warrant and remanded to undergo the unexpired portion of the sentence.  

Section 433 of the Criminal Procedure Code, 1973, which is analogous or succeeds Section 402 of the old Code, 1898, confers powers on the appropriate Government to commute (a) a sentence of death for any other punishment provided under the Indian Penal Code, (b) a sentence of imprisonment for life for a term not exceeding 14 years or fine (c) a sentence of rigorous imprisonment for simple imprisonment or fine or (d) a sentence of simple imprisonment or fine.  

Section 433 A deals with restriction on powers of remission or commutation in certain cases. This section has been inserted in the Code of Criminal Procedure, 1973 by an amendment Act of

---

24 Section 432 (5) of The Criminal Procedure Code, 1973 ran as under:

"The Appropriate Government may, by general rules or special order, give directions as to the suspension of sentence and the conditions on which the petition should be presented and dealt with:

Provided that in the case of any sentence (other than a sentence of fine) passed on a male person above the age of 18 years, no such petition by the person sentenced or by any other person on his behalf shall be entertained, unless the person sentenced is in jail and (a) where such petition is made by person sentenced. It is presented through the officer-in-Charge of the Jail; or (b) where such petition is made by any other person. It contains a declaration that the person sentenced is in Jail.

25 Id. Section 433.
1978. It provides that where an offender sentenced to imprisonment for life for an offence in which death is one of the punishments or where a sentence of death is commuted under Section 433 into one of punishment for life, such person shall not be released from prison unless he has served at least 14 years of imprisonment.

The above noted legal provisions relate to remission, suspension and commutation of sentences. There were similar provisions in the earlier code corresponding to Sections 432 & 433 (Sections 401 and 402 of the Code, 1898) but Section 433 A is altogether new. It is obvious that section 432 vests the appropriate Government with the power to remit the whole or part of any sentence. The Mechanics for exercising this power and the conditions subject to which the power is to be exercised are also mentioned in the provision. This is a wide power which in the absence of Section 433 A, extends to remission of entire life sentence if government decides to do so. A liberal use of the power of remission under Section 433 (a) may mean that many a murderer or other offender who could have been given death sentence by the court but have been actually awarded life sentence only may legally escape punishment at any time if the government remits the sentence. 26

The Joint Committee which went into the Indian Penal Code (Amendment) Bill, 1972, suggested that a long enough minimum

26 Supra note 19 at 2153.
sentence should be suffered by both classes of lifers. The provision was the product of the Joint Committee’s proposal to add a proviso to Section 57\(^\text{27}\) of the Indian Penal Code. Its appropriate place was in the Criminal Procedure Code and therefore, Section 433 A was enacted when the Criminal Procedure Code was amended. It was a punitive prescription made to parliamentary measure which prohibited premature release before the life suffered actual incarceration for 14 years.\(^\text{28}\)

Section 433 A was thoroughly examined by the Supreme Court in Maru Ram V. UOI.\(^\text{29}\) The Apex Court held that, “Imprisonment for life lasts until the last breath and whatever the length of remission earned, the prisoner could claim release only if the remaining sentence was remitted by Government and Commutation in such cases should not reduce the actual duration of imprisonment before 14 years. Thus, remissions were to be taken into account only towards the end of the term. However, section 433 A does not forbid parole within the 14 years period.

Again, in Karam Singh V. State of Himachal Pradesh\(^\text{30}\) that the parole period was to be counted for counting the actual period

\(^{27}\) Sec 57 of the Indian penal Code, 1860 ran as under:

“In calculating fractions of terms of punishment, imprisonment for life shall be reckoned as equivalent to imprisonment for 20 years”.

\(^{28}\) Supra note 19 at 2153-54.

\(^{29}\) AIR 1980 SC 2147. See also Gopal Vinayak Godse V. State of Maharashtra, AIR 1961 SC 600.

\(^{30}\) 1993 Cri LJ 3751 (H.P).
of 14 years imprisonment to be served by the prisoner under Section 433 A of the Criminal Procedure Code, 1973. Parole was granted under certain conditions and a person under parole had to observe those conditions otherwise parole may be cancelled. He was not a freeman, therefore, benefit of parole period had to be given to him.

Thus, Indian criminal jurisprudence has crystallized the law of parole and release whether it is under statute or in exercise of clemency jurisprudence and therefore, just, fair and reasonable exercise is now integral to parole release jurisprudence. Fundamental fairness- the touchstone of due process- obligates the state to ground its decisions on relevant, rational material with nexus to the objective of the parole release. 31

3.1.6 Prison Manuals

Some provisions on parole have been given in Prison Manuals.

3.1.6.1 Delhi Jail Manual

The Management and Maintenance of jails in the National Capital Territory of Delhi has been governed by the rules and regulations of Punjab Jail Manual, a manual for the Superintendence and Management of the jails of Punjab State, during the pre and post-independence era that is up to 1988, the

31 Supra note 18 at 219.
Delhi Government was entirely dependent upon the Punjab State Administration for regulation of the day to day working of the Delhi Jails. The Lt. Governor, National Capital of Delhi notified some rules for the Maintenance and Superintendence of the Delhi Jails which are known as 'Delhi Prison Rules', 1988. The power for enactment of the Delhi Prison Rules has been conferred by the Prisons Act, 1894 (IX of 1894). Thus, Delhi Jail Manual is a compilation of Delhi Prison rules, orders and connected Acts, Rules and Regulations for the Maintenance and Superintendence of Prisons in National Capital territory of Delhi and the matters untouched by Delhi Prison Rules, 1988 have to be dealt with the assistance of Punjab Jail manual.

The Delhi Jail Manual has been divided in to two parts. First part deals with the Delhi Prison Act, 2000 and related prison Rules, alongwith orders and official instructions regarding parole and furlough, premature releases and judgment of the Court connected with these matters. The Second part contains appendices which are relevant while dealing with the rules and orders contained in the first part.

Some provisions are given under the Delhi Jail Manual relating to parole and furlough. Chapter 18 of the Delhi Jail Manual deals with release on parole and furlough. Delhi administration provides parole or furlough as under:
Parole

It provides that a prisoner may be released on parole for such period as government may order in cases of serious illness or death of any member of prisoner's family or his nearest relatives. A prisoner may similarly be released on parole to arrange for the marriage of his issue for a period of not exceeding four weeks. The period spent on parole will not be counted as the part of the sentence. On receiving an application from a prisoner or from his relatives or friends for release on parole, the Superintendent of Jail shall verify personally from the facts stated in the application by the prisoner and forward the same together with the prisoners descriptive roll to the D.M. Delhi, for further verification of the grounds for which release on parole is sought. He along with his recommendations as to the desirability or otherwise of the release of the prisoner on parole, in relation to the public peace and tranquility, but irrespective of the nature of prisoners offence. The District Magistrate will send his recommendations directly to the Delhi Administration who will, if the release is recommended by the Chief Commissioner, Delhi and forward the case to the Government of India for their orders. The order of the Government of India will be communicated to the Inspector General of Prisons, Punjab, Ambala, District Magistrate, Delhi and Superintendent of Jail Concerned. The expenses of journey from and to jail will be borne by the prisoner himself.
The prisoner and his sureties will execute bonds for maintenance of good behavior during the period of parole and for return to jail on expiry of parole, to the satisfaction of the District Magistrate. The amount of personal bond and bonds to be executed by the sureties will be recommended by the District Magistrate keeping in view the statute of the prisoner, the matter of the offence committed and the period of imprisonment.  


A prisoner may be released on parole for such period as the Chief Commissioner, Delhi may order. Parole shall be admissible for:

a) Seeing any sick or dying member of the family;

b) Any other sufficient cause such as marriage of the prisoner or any other member of the family, i.e. son, daughter, sister, brother etc.;

c) For construction of house; and

d) For repairs to a badly damaged house.

The period spent on parole will not count as a part of his sentence.

---


33 Id.at 204.
Part II of Chapter VIII of this part of the Manual deals with furlough and it is desirable to notice the difference between parole and furlough and certain aspects of them dealt together. It provides that:

(1) a prisoner who is sentenced to 5 years rigorous or more and has actually undergone three years imprisonment excluding remission may be released on furlough. The first spell may be of three weeks and subsequent spell of two weeks each, per annum, will be granted on the fulfillment of the following conditions:

   a) his conduct in jail has been good, he has earned three annual good conduct remissions and he continues earning good conduct remissions or maintain good conduct;

   b) he is not a habitual offender;

   c) he is not convicted of robbery with violence, dacoity and arson; and

   d) he is not such a person whose presence is considered highly dangerous or prejudicial to the public peace and tranquility by the District Magistrate of his home District.

(2) The period of furlough will count as sentence undergone except any such period during which the prisoner commits an offence outside. The period of furlough will be treated as a part of the sentence undergone in jail.
Any of the following punishment may be awarded to the prisoner for overstaying the parole or furlough.

**Parole:** The prisoner may be deemed to have committed an offence under Section 224, Indian Penal Code, 1860\(^{34}\) and may be prosecuted with Government sanction, in which case he will forfeit all remissions earned.

**Furlough:** (a) Warning; (b) withholding of concessions of either interviews or letters or both for a maximum period of six months; (c) a maximum cut of 5 days remission for each day of overstay; and (d) furlough period should not be counted towards sentence i.e. the prisoner should undergo furlough period on return from furlough.

The Superintendent of Jail may award one or more of the punishments mentioned above at his discretion.\(^{35}\)


The provisions of parole and furlough as provided in the Punjab Jail Manual and Himachal Pradesh Jail Manual are same as given in the Delhi Jail Manual in verbatim. Section 59 of the Prisons

\(^{34}\) For detail, see, Section 224, The Indian Penal Code, 1860.

\(^{35}\) Supra note 32 at 203-204.
Act, 1894 empowers the State Government to make rules relating to remission of sentence, release on parole, premature release and jail reforms etc. The National Capital territory of Delhi has its own Prisons Act, known as the Delhi Prisons Act, 2000. The Prisons Act, 1894 (IX of 1894) in its application to Delhi has been repealed according to Section 73 of the Delhi Prisons Act, 2000.

3.1.6.2 Parole/Furlough Guidelines, 2010

For the administration and operation of parole system, Delhi Administration has made guidelines. However, there were some lacunas as a result of which the Delhi High Court directed the Government to make new guidelines. Parole guidelines were set in motion by Delhi High Court after it was largely perceived that murder convict Manu Sharma had got parole easily. The court had asked solicitor General Gopal Subramanium to help the Government to change the existing rules, observing that parole to the poor was rejected while the ‘rich’ got away. The first drafts did not meet the courts approval because the Government had been too strict, making parole inaccessible for all categories of convicts. However, while submitting the fresh set of guidelines called Parole/Furlough Guidelines 2010, solicitor General Gopal Subramanium told the Division bench headed by chief Justice A.P. Shah that all relevant issues had been addressed in the new


37 Manu Sharma V. State of Delhi. AIR 2010 (SC) 2352.
document. The document was approved by the Lieutenant Governor and came into force immediately. The guidelines for the first time set a timeframe within which all concerned authorities are required to process and dispose of parole applications.  

(I) Objectives

The present guidelines are intended to regulate applications for parole and to ensure that they are considered in a fair and transparent manner. The guidelines have been framed to achieve the objectives of parole such as:

a) to enhance continuity with family members;
b) to maintain a minimum level of self worth and confidence;
c) to develop a positive attitude and interest in life;
d) to combat inner stress; and
e) to protect social ties.  

There shall be two kinds of parole to which a convict would be eligible.  

(A) Custody Parole; and

(B) Regular Parole.

---

39 Supra note 36, Clause 3.
40 Id. Clause 4.
(A) Custody Parole

Custody parole would be granted in emergency circumstances such as, death, marriage, and serious illness of family members or any other emergent circumstances. ⁴¹

So far as the procedure is concerned, the Superintendent of Jail will verify the existence of the circumstances mentioned in clause 5, from the concerned Police station immediately on the receipt of application. Custody parole will be granted by an order in writing issued by the Superintendent of jail. It is for a period of not more than 6 hours, excluding the time taken to reach destination and return to jail. The prisoner would be escorted to the place of visit and return there from, ensuring the safe custody of the prisoner. Such period would be deemed to be in prison for the said period. It would be treated as period spent in prison. ⁴²

(B) Regular Parole

In case of regular parole, it would be open to the Government to consider applications for parole on other grounds such as, serious illness or critical conditions in the family on account of accident or death of a family member, marriage of any family member, delivery of a child by the wife of convict if there is no other family member to take care of the spouse at home, serious damage to life or property of the family of convict including damages caused by natural calamities, to maintain

⁴¹ Id. Clause 5.
⁴² Id. Clauses 6, 7, 8.
family and social ties and to pursue the filling of a special leave petition before the Supreme Court of India against a judgement delivered by the High Court convicting or upholding the conviction.  

The guidelines also make it clear that where an appeal is pending before the High Court, parole will not be granted because the convict can seek appropriate orders from the High Court.  

(a) Eligibility for Release on Parole

In order to be eligible for release on parole:

i. A convict must have served at least one year in prison excluding any period covered by remission;

ii. The conduct in prison must have been good;

iii. During the period of release on parole, if granted earlier, the convict should not have committed any crime and should not have violated any terms and conditions of the parole; and

iv. A minimum of six months should have elapsed from the date of termination of the previous parole.

(b) Not Eligible for Release of Parole

The convicts would not be eligible for being released on parole, whose release on parole is considered:

43 Id. Clause 9.
44 Id. Clause 10.
45 Id. Clause 11.
i. Dangerous or threat to the National security or who have been involved in crimes and offences against the State such as Sedition, or who have escaped from jail or who is not a citizen of India;

ii. If the prisoner is convicted of murder after rape;

iii. Murder and rape of children; and

iv. Multiple murders.

On such grounds parole would ordinarily be not granted except, if in the discretion of the competent authority special circumstances exist for grant of parole. 46

If there are more than one convicts in a case when are lodged in the same prison, the co-accused convicts would not be released simultaneously except upon special circumstances to be mentioned in the order granting parole. 47 The period of parole shall not exceed one month at a time except in special circumstances. The government shall decide the period of release on the merits of each case. 48

(c) Procedure for Disposal of Application

An application for the grant of parole may be submitted by the convict or relative of convict to the Superintendent of Jail. The application must contain, name and address of the applicant,
and reasons for seeking parole. Superintendent of jail will maintain a parole register. Upon the receipt of the application, an entry would be made in the parole register immediately and he would verify the grounds stated in the application upon an oral interview with the prisoner. Then he would forward copy of the application to the concerned police station for its report and the report from police station will be based on fair enquiry. The report by police station (if within NCR) shall be furnished by the concerned police station in the format prescribed in the schedule, within 7 days from the date of receipt of the copy of the said application at the police station if the report is not received within 7 days, from the concerned police station, the Superintendent of jail will send a communication in writing to the Deputy Commissioner of Police of the concerned District with a copy to the concerned police station requiring the submission of report within 5 working days from the date of receipt of the communication. 49

In case verification report is required from the police station of any other state, the same should be sought from the concerned deputy commissioner of Police. The said report shall be furnished by the concerned authority within 10 days of the receipt of the copy of the application of parole. If report not received within 10 days, the Superintendent of the jail shall forward a communication in writing to the Director General of Police of the

49 Id. Clause 16.
state concerned for submission of the report within 7 working
days from the date of receipt of the said communication. If no
report is received by the Superintendent of jail within the period
mentioned, it shall be presumed that the concerned police
authorities have no objection to parole being granted. The
application, would then have to be immediately forward to the
Deputy Secretary Home (General) Government of NCT of Delhi
with a note that no report had been received and had no objection
to the grant of parole, and the application be disposed on
merits.50

The Superintendent of jail shall maintain a separate register
which will contain entries to record where a report is not received
within stipulated time period. Such details must be communicated
by him to the commissioner of police, Delhi or Director General of
Police of the state concerned. The Superintendent of jail will
forward to the Deputy Secretary Home (General), application of
the convict, police report if any, forwarding note in case no police
report has been received, specific recommendation of the
Superintendent of jail, nominal rolls of the convict, medical
report, if parole is sought on medical ground and any other
relevant documents.51

The Deputy Secretary Home (General) NCT will maintain a
record including computerized register to enter the receipt of

50 Ibid.
51 Id. Clauses 17 &18.
application and would scrutinize the application and would ensure that Home Department decides the application of parole within 3 weeks. The decision will be communicated to the Superintendent of jail who in turn will communicate the same to the prisoner. Superintendent of jail will ensure that a copy of the order is served on the prisoner. While granting parole, it would be open to the competent authority to impose suitable conditions while rejecting an application for parole, the order shall contain reasons. Where a prisoner has been released on parole subject to his furnishing personal and/or surety bonds, it shall be to the satisfaction of the Superintendent of jail.  

(II) Furlough

A prisoner who is sentenced to 5 years or more or rigorous imprisonment but has undergone 3 years of imprisonment excluding remission can be released on furlough and would be entitled to 7 weeks of furlough in a year. The first spell could consist of 3 weeks, while the subsequent spell would consist of 2 weeks each. 

(a) Eligibility to Obtain Furlough

In order to obtain furlough, the prisoner must have good conduct in prison and should have earned 'Three Annual Good Conduct Remissions' and continues to maintain good conduct. He

52 Id. Clauses 19,20,21,22,23.

53 Id. Clauses 24-25. See also Section 2(h) of The Delhi Prisons Act, 2000 for (Meaning of furlough).
should not be a habitual offender and should be a citizen of India and not have been convicted of robbery, dacoity, arson, kidnapping, abduction, rape and extortion or any offences against the state such as sedition or his release should not be considered dangerous to the interest of national security. The convict is not such a person whose presence is considered highly dangerous to the public peace and tranquility by the District Magistrate to his home district. If an appeal is pending before the High Court or the period of filing an appeal before the High Court has not expired, furlough would not be granted.

(b) Procedure for Disposal of Application

While forwarding an application for furlough, the Superintendent of Jail will submit, name and last address of the convict, conduct in prison and nominal roll. The sanctioning authority for furlough would be the Director General Prisons with intimation to the Home Department Government of NCT. The cases of furlough will be completed on a fast track basis by the Superintendent of Jail within a period of two weeks. It is open to the competent authority to impose suitable conditions while granting furlough. If a prisoner being released on furlough belongs to any other state than the concerned police shall be requested to keep a watch on the prisoner to released.

54 Id. Clause 26.
55 Id. Clause 27.
56 Id. Clauses 28-32.
The Director General, Prisons will maintain a computerized database to deal with all cases/applications for grant of parole/furlough. While disposing of an application for parole or furlough, the competent authority will assess the behavior and trustworthiness of the convict on one hand as well as any adverse effect which may exist if parole is granted. The authority may act fairly and state reasons if the application is rejected. The expenses of journey from and to the prison would be borne by prisoner. If the family of the prisoner is poor, then the Government would meet the cost of journey. But this fact must be verified by the District Magistrate of the District where the family resides.

The period of parole/furlough will count as sentence undergone unless the prisoner commits any offence during the period he is released on parole/furlough in which event the period will not be counted as sentence undergone.

(III) Punishments for Overstaying the Parole or Furlough

Punishment may be awarded to the prisoner for overstaying the parole or furlough. In case of parole, the prisoner may be deemed to have committed an offence under Section 224 of the Indian Penal Code, 1860 and may be prosecuted with

---

57 Id. Clause 33.
58 Id. Clauses 34,35,36.
59 Id.Clauses 37.
Government sanction, in which the case he will forfeit all remissions earned.

In case of furlough, warning, with holding of concession of either interviews or letter or both for maximum period of 6 months, deduction of up to 5 days remission for each day of overstay, furlough period should be counted towards sentence i.e. the prisoner should undergo furlough period on return from furlough. The Superintendent of jail may award one or more of the punishments mentioned above at his discretion.  

At the time of an admission of a convict as a prisoner, the prisoner would be furnished with a booklet which would contain the present guidelines. The said guidelines would be available both in Hindi/English. In case the convict does not know either Hindi or English, suitable assistance would be provided to explain the contents of these guidelines.


More Recently the Apex court in Ramamurthy V. State of Karnataka brought an urgent need for bringing uniformity in laws relating to the prisons and has directed the Central and State

---

60 Id. Clause 38. See also Delhi Jail Manual, Chapter 18 at 202-204.
61 Id. Clause 39.
Governments to formulate a New Model Manual. Earlier, the All India Committee on Jail Reforms (1980-83) had also emphasized the need for a consolidated law on prisons. In pursuance to the directions given by the Hon’ble Supreme Court in this case, the Government of India has constitute All India Model prison Manual Committee in November, 2000 under the Chairmanship of Director General of BPR &D to prepare a Model Prison Manual for the Superintendence and Management of Prisons in India in order to made uniformity in the working of prisons throughout the country. Thus, All India Model Prison Manual (2003) has been prepared by the bureau of Police Research and Development through a wide ranging consultation process involving the major stakeholders in the correction administration in the country. It has been approved by the Ministry of Home Affairs, Government of India New Delhi, 2003 and circulated to all the State/UTs for revising their own Jail Manuals subject to their State specific facts and circumstances. It is very exhaustive manual which touches upon all aspects of prison management. State/UTs need to adopt it by revising their jail Manual, if any, subject to their local needs while subscribing to the basic concept. It consists of 28 Chapters and Chapter XVIII of Model Prison Manual deals with leave and special leave.

Provisions regarding Leave and Special leave and Parole are similar. Leave & Special Leave are synonymous to parole.

---

system. Leave and special leave to inmates are progressive measures of the correctional services. The release of prisoner on leave not only saves him from the evils of incarceration but also enables him to maintain social relations with his family and the community. It also helps him to maintain and develop a sense of self confidence. Continued contacts with family and the community sustain in him a hope for life. The provisions for grant of leave should be liberalized to help a prisoner maintain a harmonious relationship with his family. The privilege of leave should be allowed to selective prisoners on the basis of well defined norms of eligibility and propriety. 64

The objectives of releasing a prisoner on leave are to enable the inmate to maintain continuity with his family life and deal with family matters or, to save him from the evil effects of continuous prison life or, to enable him to maintain and develop his self confidence and to develop constructive hope and active interest in life. 65

(I) Leave

Leave is not a right but a concession which may be granted to convicts. This concession is subject to cancellation. The State Government/IG reserves the right to debar/withdraw any prisoner from the concession of leave. 66

---

64 Id. Para 17.01.
65 Id. Para 17.02.
66 Id. Para 17.03.
The prisoners who shall not be eligible for being released on leave are whose presence is considered dangerous to the public peace, or who are involved in serious prison violence like assault, outbreak, escape or violation of prison discipline, or who are convicted for offences such as dacoity, terrorist crimes, kidnapping, smuggling including those convicted under NDPS Act or prisoners for failure to give security for maintaining peace or good behavior, or prisoners suffering from mental illness, if not certified by medical officer to have recovered and whose work and conduct have not been good during the preceding 12 months.67

Table-3.1.6.3
Eligibility for Leave is Regulated by following table: 68

<table>
<thead>
<tr>
<th>Sentence</th>
<th>When due for first Release on leave</th>
<th>When due for second release</th>
<th>When due for subsequent releases</th>
<th>Duration of leave per year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not Exceeding five years</td>
<td>On completion of 1 year of actual imprisonment to be counted from the date of admission to prison as convict</td>
<td>After completion of six months of actual imprisonment to be counted from the date his last return from leave</td>
<td>After completion of six months of actual imprisonment to be counted from the date his last return from leave</td>
<td>21 days</td>
</tr>
<tr>
<td>Exceeding five years but not more than 14 years</td>
<td>On completion of 2 years of actual imprisonment to be counted from the date of admission to prison as convict</td>
<td>After completion of one year of actual imprisonment to be counted from the date of his last return from leave</td>
<td>After completion of six months of actual imprisonment to be counted from the date of his last return from leave</td>
<td>21 days during the first five years of confinement and 28 days for the rest of term</td>
</tr>
<tr>
<td>Prisoners sentenced life or imprisonment exceeding 14 years</td>
<td>On completion of 3 years of actual imprisonment to be counted from the date of submission to prison as a convict</td>
<td>After completion of one year of actual imprisonment to be counted from the date his last return from leave</td>
<td>After completion of 6 months of actual imprisonment to be counted from the date of his last return form leave</td>
<td>21 days during the first five years of confinement and 28 days for the rest of term.</td>
</tr>
</tbody>
</table>

67 Id. Para 17.04.
68 Id. Para 17.05.
For calculation of sentence for the purpose of eligibility for leave, 'sentence' shall mean a sentence as finally fixed on appeal, revision or otherwise. 69 A register shall be maintained in the prison in which all cases of prisoners eligible for leave shall be posted three months in advance of the date on which they become eligible for it. Such record will be kept in the office of Head of the Prison Department/IG of Prisons. 70

(II) Special Leave

Special leave may be granted to a prisoner in special situations such as, death or serious illness of father/ mother/ brother/ sister/ spouse/ children or marriage of brother/sister/ children. Prisoner's eligible for the grant of special leave should not get it for a period of more than 30 days at a time. In special circumstances such leave can be extended up to a maximum period of 90 days, but in no case such leave should be extended further. 71

(III) Competent Authority to Sanction Leave/Special Leave

Head of the Prisons Department/IG of Prisons will be the competent authority for granting release on leave. Head of the prison Department/IG Prisons will be competent authority for granting release on special leave for a maximum period of 30

69 Id. Para 17.06.
70 Id. Para 17.07.
71 Id. Para 17.08, 17.09.
days at a time. For the extension of such leave beyond 30 days order of the State Government will be obtained by the Head of the Prisons Department/IG of Prisons. Special leave may be granted to the prisoners in an emergency situation like death of a member of the family. Such leave will be given after verifying the facts. The period spent on leave will be counted as sentence served while that spent on special leave will not count as such. The period spent on special leave will be treated as out days or sentence suspended for all purpose. 72

(IV) Procedure

A prisoner desiring to avail the concession of leave or special leave will submit his application to the Superintendent of the Prison. He will examine each case carefully with regard to eligibility for leave. He will than forward the application to the concerned D.M. and the Superintendent of police for report. The police of the concerned district will submit its report through the DM to the IG of Prisons within 4 weeks. In case the police disagree with the proposed release of prisoner on leave, reason for such disagreement should be specified. The opinion of the district authority should be obtained only for the first release of a prisoner on leave. For the subsequent releases no such opinion would be necessary provided that the prisoner had surrendered in time and had no adverse report from police about the behavior of the prisoner during earlier leave period. Prisoner whose conduct

72 Id. Para 17.10-17.13.
is found unsatisfactory should not be considered for this concession.  

(V) Conditions of Leave

Head of the Prison Department/IG of Prisons may make an order for the release of a prisoner on leave or special leave subject to the following conditions:

(a) the prisoner will give cash security for the amount ordered by the head of the Prison Department/IG of Prisons or execute a personal bond or execute bond with one or more sureties according to the directions of the Head of the Prisons Department/IG of Prisons;
(b) the prisoner shall reside at the place designated by Authority;
(c) the prisoner will keep good behavior and will not commit any offence during leave;
(d) prisoner will report to the Probation Officer if any, of the area of his stay during leave;
(e) the prisoner will neither associate with bad character nor lead a dissolute life;
(f) the prisoner will be liable to be recalled immediately to prison in case of violates any of the conditions; and

---

73 Id. Para 17.14 – 17.17.
74 Id. Para 17.18.
(g) the prisoner will surrender himself to the Superintendent of the prison on expiry of the leave granted, or on recall.

(VI) Release on Leave

On the receipt of the order from the Head of the prison Department/IG of Prisons, the prisoner should be released on Leave/Special Leave after he has executed the necessary bond and has signed the conditions of release. At the time of release the prisoner should be supplied with an identity card and certificate of release on leave.\(^75\)

(VII) Authorities to be Informed

Release of prisoner on leave should be intimated to the following authorities:

(a) D.M. and Superintendent of Police of the district in which the prisoner proposes to spent the leave;

(b) D.M. and District Superintendent of Police of the home District of the prisoner;

(c) Probation Officer in whose jurisdiction the prisoner proposes to spend the leave.\(^76\)

(VIII) Sureties

For release of prisoners surety should be secured in one of the following ways:\(^77\)

\(^{75}\) Id. Para 17.19.

\(^{76}\) Id. Para 17.20.

\(^{77}\) Id. Para 17.21.
(a) on executing a personal bond;  
(b) the wages earned by prisoners may be taken as cash security;  
(c) the Probation Officer may be asked to arrange necessary surety;  
(d) panchayat of the home village of the prisoner may stand surety for him; and  
(e) family members/relatives/friends of the prisoners if of good antecedents, may stand surety for him.  

IX) Travel Expenses  

The prisoner will himself meet all expenses, including those incurred on journey to and from the place of his stay, during leave.  

3.1.7 LEGISLATIONS  

3.1.7.1 The Prisons Act, 1894  

The Prisons Act, 1894, was passed to amend the law relating to prisons. Section 45 of the Act deals with prison offences. Section 46 of the Act deals with punishment for such offences. According to this section, the superintendent may examine any person touching any such offence and punish them.  

78 Id. Para 17.22.  
79 See Section 45 of the Prisons Act, 1894.  
80 Id. Section 46.
Section 59 of the Act deals with power to make rules. This section provides that the State Government may by notification in the Official Gazette makes rules consistent with this Act. This section empowers the State Government to make rules relating to remission of sentence, release on parole, premature release and jail reforms etc. Where prisoners were released on parole on their request for undergoing industrial training the period of training cannot be treated as part of their sentence. 81

3.1.7.2 The Prisoners Act, 1900

The Prisoners Act, 1900 was passed to consolidate the law relating to prisoners confined by the order of the Court. 82 Some provisions are given in the Act relating to release of prisoners on parole after inserting part VI-A under section 31 in the different states. The treatment is as under:

(I) Bihar

In its application to the State of Bihar, after Part-VI certain changes have been inserted.

Section 31 A deals with the constitution of District Parole Board. According to it, there shall be a District Parole Board in each Distinct consisting of DM, the Superintendent of Police, two members of State Legislature to be nominated by the State

---

81 Id. Section 59.
82 Preamble, The Prisoners Act, 1900.
Government and Superintendent of District Jail, or, if there is a central Jail in that District then the Superintendent of that Jail.  

Section 31B deals with the release of prisoners on parole. Sub-Section (1) of it empowers the State Government or any authority to which the State Government may delegate its powers in this behalf, may direct that the prisoners may be released on parole on the recommendation of the District Parole Board. The prisoners maybe released with or without conditions as may be specified in direction. Such release must not be exceeding thirty days at a time, excluding the time required for journeys. According to proviso, the prisoner shall not be released unless:

(a) He has served a period of not less than one year excluding remissions of his sentence;

(b) His conduct in prison has been uniformly good in the opinion of the District Parole Board;

(c) There is, in the opinion of the District Parole Board that during the period of his release, he shall not commit any crime; and

(d) In case of second or subsequent release, not less than six months have elapsed from the date of the expiry of his previous release.

A prisoner shall not be released under this sub-section more than three times. According to sub section (2), the

---

83 Id. Section 31 A.
provisions of sub section (1) shall not apply to prisoner who has
been convicted of an offence specified in the schedule or who has
been classified as a habitual criminal under the rules made under
the Prisons Act, 1894. According to sub section (3) of the section
31-B, the period of release of prisoner shall count towards the
total period of his sentence.  

Section 31-C deals with the power to release prisoners for
special reasons. Sub section (1) empowers the State Government
or any authority to which the State Government may delegate its
powers, may direct that the prisoners may be released for any
special reasons for a period not exceeding fifteen days. They may
be released with or without conditions which are specified in the
direction which the prisoner accept, and may at any time cancel
his release. According to sub section (2), the release of any
prisoner may require him to enter into a bond with or without
sureties for the due observance of the conditions. According to
sub-section(3), if he fails to fulfill any of the conditions imposed
upon him in the bond entered into by him, the bond shall be
declared to be forfeited and the person shall be liable to the
penalty.

According to the proviso, the prisoner shall not be released
under this section, without the special sanction of the State
Government, unless: (i) he has served at least six months of his

---

84 Id. Section 31-B.
sentence; (ii) his conduct in the opinion of the superintendent of jail, uniformly good; (iii) he is not a habitual criminal, and (iv) the offence for which he has been convicted does not involve grave moral turpitude or mental depravity, in the opinion of the authority directing the release.  

Section 31-D, sub-section (1) provides that any prisoner released under section 31-B or section 31-C, shall surrender himself to the officer in-charge of the prison from which he was released. If he does not surrender then he may be arrested by any police officer without warrant. He shall be remanded to custody to undergo unexpired period of sentence. Sub section (2) provides that if any prisoner who does not surrender himself as required shall be liable and punished with imprisonment, which may extend to two years or a fine up to five hundred rupees or with both.  

Section 31-E empowers the Government to make rules prescribing the conditions on which and the manner in which prisoners can be released.  

---

85 Id. Section 31-C.  
86 Id. Section 31-D.  
87 Id. Section 31-E ran as under:  
(1) The State Government make rules for carrying out the purpose of this part.  
(2) In particular and without prejudice to the generality of the foregoing provisions such as rules may provide for:  
(a) the procedure to be followed in respect of the proceedings for the release of prisoners;  
(b) the conditions of release of prisoners including conditions for supervision during the period of such release;  
(c) travelling allowances for prisoners during the period of release;
(II) Madhya Pradesh

In Madhya Pradesh, the legal provision is concerned with annual leave. It lays down the method and procedural safeguards of granting leave to a prisoner.

Section 31-A(1) empowers the State Government to 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 21 days in a year. According to sub-section (2) these provisions are not applicable to a prisoner who has been classified as a habitual criminal for the purpose of rules made under the Prisons Act, 1894 and who has more than three previous convictions. Sub section (3) provides that the leave shall not be admissible to a prisoner during a year under sub-section (1) for more than two occasions or for a period of less than 10 days and unless a period of three months has elapsed since the expiration of leave taken earlier during the year.

According to sub-section (4) a prisoner shall not be granted leave unless he at the time of the grant of leave has served one half his sentence including remission or a period not less than 2 years of his sentence, including remission, whichever is less those have not been punished for a prison offence under section

(d) restriction on the movement of the prisoners during the period of release; and
(e) travelling allowances for non-officials members attending the meetings of the District parole Board".
Chapter 3

46 of the Prisons Act, 1894 during 12 months prior to the date of the commencement of the leave applied for. According to sub-section (5) that the period of leave of prisoner under sub-section (1) shall count toward the total period of his sentence.

Sub-section (6) provides that, the authority directing the grant of leave may require prisoner to enter into a bond with or without sureties for due observance of conditions specified. According to sub-section (7) that if any prisoner, who has been granted leave, fails to fulfill any of the conditions imposed upon him, shall be liable to penalty. According to sub-section (8), if any prisoner has violated the conditions of leave or bond, he/she shall not be granted leave during the remaining period of his sentence.\(^{88}\)

Section 31-B(1) empowers the State Government to grant emergency leave to a prisoner who is entitled to leave under section 31-A for a period not exceeding 15 days, subject to such conditions as prescribed. The leave may be cancelled at any time. Sub section (2) provides that emergency leave may be granted to a prisoner in case of death of the spouse, son, daughter, father, mother, sister, brother, parental or maternal grandfather or mother or in case of her or his own marriage. Marriage of his/her son, daughter, brother and sister.

\(^{88}\) Id. Section 31-A.
Chapter-3

According to sub-section (3) that the authority directing the grant of emergency leave to any prisoner may require him to enter into bond with or without sureties. Sub-section (4) provides that if he fails to fulfill any of the conditions imposed upon him, he shall be liable to penalty. According to sub-section (5) that the prisoner shall not be granted emergency leave if punished for a prison offence under Section 46 of the Prisons Act, 1894 during 12 months prior to the date of commencement of the leave applied for. Sub section (6) provides that the leave cannot be claimed as a matter of right. According to sub section (7) that period of leave shall not count towards the total period of his sentence. 89

Section 31-C (1) provides that on due date, he shall surrender himself to the officer-in-charge of the prison from which he was released. According to sub-section (2), if he fails to surrender himself, may be arrested by any police officer without warrant and shall be remanded to undergo the unexpired portion of his sentence. 90

Section 31-D deals with penalty, and says that if any prisoner who does not surrender himself shall be liable upon conviction. He shall be punished with imprisonment for a term which may extend to 2 years or with fine or with both. 91

89 Id. Section 31- B.
90 Id. Section 31- C.
91 Id. Section 31- D.
Section 31-E, empowers the State Government to make rules for different aspects of leave or emergency leave, such as, procedure, conditions for grant of leave/emergency leave, restrictions on the movement, cancellation of leave/emergency leave. \(^{92}\)

(III) Tripura

In Tripura, section 31-A provides for the temporary release of the prisoners. Section 31 A(1) empowers the State Government or any authority as empowered by the State Government, subject to provisions of Sections 433 and 433A of Criminal Procedure Code, 1973 and to such conditions as may be prescribed under Section 31-D at any time, to release, temporarily for a period not exceeding one month at a time, a prisoner who having been sentenced to imprisonment for a term of 2 years or more has actually undergone imprisonment for not less than one year. According to proviso, before a prisoner is released, shall have to execute a bond with or without sureties of the State Government or other authority may determine for good behavior during the period of release and for observing the conditions for release.

According to sub-section (2) that a prisoner shall not be released unless he shall have, after the expiry of the period of release, at least one year of further imprisonment to undergo and the Officer-in-Charge of the prison certify that the conduct of the prisoner in the prison has been good. Sub-section (3) provides

\(^{92}\) Id. Section 31-E.
that every prisoner shall remain within Tripura during the period of such release. According to sub-section (4) the provisions of the Sections 446, 447, 448, 449 of the Criminal Procedural Code shall apply in respect of bonds executed, with or without sureties. Sub section (5) provides that the order granting release may be cancelled by the State Government or other authority, if the prisoner contravenes any of the condition of release or commits any offence. According to sub-section (6) that the period of release of prisoner shall count towards the total period of his sentence. 93

Section 31-B, which deals with the special provisions for release on long term parole. 94 Sub-section (1) of it states that notwithstanding anything contained in Section 31-A and subject to the provisions of Sections 433 and 433-A of the Criminal Procedure Code, 1973 or any other law for the time being in force, the State Government may direct that a prisoner may be released upon such conditions as may be prescribed by rule made under Section 31-D at any time for period not exceeding two years. It may also cancel at any time his release.

According to the proviso, if the State Government is satisfied that the conduct and behavior of the prisoner released on parole is good that the release of the prisoner shall continue after expiry of the period of 2 years. It may time to time issue

93 Id. Section 31- A.
94 Id. Section 31- B.
directions for such continuance for such period, which will not exceed one year at a time. However, the total period of such a continuance in parole (after the expiry of the said period of two years) shall not exceed eight years.

A prisoner shall not be released unless he has been sentenced to undergo rigorous imprisonment for 10 years or more or he has served at least 5 years of his sentence excluding remission by including the period of detention or his conduct has been good in the opinion of the Superintendent of jail or he is not a habitual offender and the offences for which he has been convicted, does not involve gross moral turpitude or mental depravity. Sub section (2) provides that the State Government may require him to enter into bond with or without surety for due observance of the conditions specified. According to Sub-section (3), if any prisoner fails to fulfill any conditions imposed upon him, shall be liable to the penalty. Sub-Section (4) provides that the period of release of prisoner shall count towards the period of his sentence.

Section 31-C deals with the surrender by prisoners after release period. According to sub-section (1) on the expiry of the period of which a prisoner is released, shall surrender himself to the Officer-in-Charge of the prison. Sub-section (2) provides that it he does not surrender himself, may be arrested by police officer without a warrant and shall be remanded to undergo the unexpired portion of his sentence and shall also be punishable
under section 46 of the Prisons Act, 1894. The period of release is not counted towards sentence. 95

Section 31-D empowers the State Government to make rules for carrying out the purpose of the Act. Such rules may provide the procedure for release, condition of release including the conditions for supervision during release, restrictions on the movement of prisoners for release under Section 31-A. 96

(IV) West Bengal

Although the West Bengal provision has been repealed by the West Bengal Correctional Service Act, 1992, it is necessary to make a reference to the provision, i.e. 31-A to pinpoint the development of law in the area of parole and analogous concepts.

Section 31-A empowered the State Government or such authority to release temporarily for a period not exceeding one month. The release was subject to the provisions of the part and to such conditions as might be prescribed by rules made under Section 31-C. The benefit could be taken by such prisoner, who had been sentenced to imprisonment for more than two years and had actually undergone for not less than one year. 97

Section 31-B (1) empowered that on the expiry of the period for which a prisoner was released, should surrender himself to the Officer-in-Charge of the Prison. Sub-section (2) provides that

95 Id. Section 31- C.
96 Id. Section 31- D.
97 Id. Section 31- A.
if a prisoner did not surrender himself then he might be arrested by any police officer without a warrant and should be remanded to undergo the unexpired portion of his sentence. (The period of release not being counted towards the total period of his sentence).  

Section 31-C empowered State Government to make rules for carrying out the purposes of the Act. Such rules provided the procedure for release, condition of release including supervision for release, restrictions on the movement of prisoner for release under Section 31-A.

3.1.7.3 The Delhi Prisons Act, 2000

The Delhi Prisons Act, 2000 was passed by the Legislative Assembly of the National Capital territory of Delhi on 23rd November, 2000 to provide for the detention of prisoners committed to prison custody and for their reformation and rehabilitation with a view to ensuring safe detention and minimum standard of treatment of prisoners consistent with the principle of dignity of the individuals. Section 2(p) of the Act, defines parole system. "Parole System" means releasing prisoners from prison on parole by suspension of their sentences in accordance with the rules. Section 46 of the Act deals with prison

---

98 Id. Section 31- B.
99 Id. Section 31- C.
100 The Delhi Prisons Act, 2000.
101 Id. Section 2(p).
offences\textsuperscript{102} and Section 47 deals with punishment for such
offences. According to Section 47 of the Act, Superintendent may
examine any person touching any offence and punish them.\textsuperscript{103}

Section 54 of the Act, 2000 deals with the punishment for
not fulfilling conditions subject to which remission, parole etc was
given. Where any prisoner fails without any sufficient cause to
observe any of the conditions on, which he has been released on
parole or furlough, the competent authority may cancel such order
granting parole or furlough, and (a) if the prisoner is at large,
shall be arrested by any police officer without warrant and
remanded to undergo the unexpired portion of his sentence; (b)
shall on conviction by a court, be punishable, in addition to the
sentence he is undergoing with imprisonment for a term which
may extend to two years or with fine or with both. No court shall
take cognizance of an offence punishable except with the
previous sanction of the Government or the authority which
ordered the parole or furlough.\textsuperscript{104}

Section 71 of the Act, 2000 deals with the power to make
rules. This section empowers the State Government to make the
rules under sub-section (2) (XIX) for rewards for Good Conduct,
(XXIX) for the grant of parole, furlough and leave to the

\textsuperscript{102} Id. Section 46.
\textsuperscript{103} Id. Section 47.
\textsuperscript{104} Id. Section 54.
prisoners, (XXX) for the temporary release, suspension and remission of sentence of prisoners.  

Section 73 deals with Repeal & Savings. According to this section, the Prisons Act, 1894 (IX of 1894) in its application to Delhi is hereby repealed.  

Delhi Administration has made parole/furlough Guidelines 2010 for the administration and operation of parole system. There is a specified provision under the Delhi Prison Act, 2000 relating to parole/furlough. Section 71(2)(XXIX) deals with the power to make rules for the grant of parole, furlough and leave to the prisoners. Other States can also adopt such guidelines under Section 59 of the Prisons Act, 1894. Section 59 of the Act, 1894, empowers the State Government to make rules consistent with this Act.

3.1.7.4 The West Bengal Correctional Services Act, 1992

The West Bengal Correctional Services Act, 1992 is passed by the West Bengal Legislature to amend and consolidate the law relating to prisons and prisoners detained in West Bengal. It extends to the whole of West Bengal. According to Section 62(1) of the Act, Inspector General of Correctional Services to release on parole of prisoner for such a period not exceeding one month if prisoner is sentenced to imprisonment for a period of two

---

105 Id. Section 71.
106 Id. Section 73.
107 Nitai Roy Chowdhury, Indian Prison Laws and Corrections of Prisoners, 356 (1st Imp.2002).
years or more. It does not include the time taken in journey from and to the correctional home. The release shall be on executing a bond for sum, not exceeding one thousand rupees, and on giving an undertaking of good behavior during the period of his release on parole with or without surety as according to the Government. The release is subject to conditions as may be imposed by the State Government. Before such release, no prior permission or approval of the police shall be necessary.

According to proviso, if the prisoner owns immovable property sufficient to cover amount of security, he shall be released on parole without surety on execution of the bond describing the particulars of the immovable property.

Section 62(2) provides that no prisoner shall be released on parole, unless he has served imprisonment for one year. If he has been sentenced to imprisonment of two years but not exceeding five years, similarly, a prisoner shall not be released unless he has served imprisonment for two years in case of imprisonment for more than five years. No prisoner shall be released during the remaining period of imprisonment. According to sub section (3), in case of any emergency, such as serious illness of his near relatives, friends, marriage of his son, daughter, brother or sister or any ceremony in which his participation is essential, the IG may grant release to any prisoner for a period not exceeding five days. In such a case, execution of bond or surety shall not be necessary.
Section 62(4) provides that prisoner shall not be released on parole, if he is habitual offender, or his release is due within six months from the date on which he applies for release on parole or he has been convicted under Chapter XII or XVII (excluding the offence of criminal breach of trust and mischief) or under Section 465 of Indian Penal Code or for an offence involving violation of the provisions of the Imports and Exports (Control) Act, 1947, or any other Law regulating or controlling the essential services and supplies or regulating or prohibiting the adulteration of food and medicine. According to Section 62(5), if the prisoner is elected as member of the State Legislature or Parliament or Local authority during his confinement in a correctional home and is required to take his oath as such members before any authority under the provisions of any law for the time being in force, the IG of correctional services shall grant him release on parole for such a period as maybe necessary for the purpose. Sub section (8) provides that when the prisoner is released on parole, shall be furnished with a certificate signed by the Superintendent showing the name of the prisoner, the period of release on parole, and the place of staying during the said period. A duplicate copy of the certificate shall be retained by the correctional homes. The Prisoner shall report to the police station of the place of his staying during the period of release on parole to enable the local police to keep a watch on his activities. According to Section 62(9), after the return of the prisoner to the
correctional home on the expiry of the period the amount of security deposited shall be forfeited in the absence of satisfactory reasons. ¹⁰⁸

Section 63 of the Act, deals with surrender of prisoner released on parole. According to it, a prisoner released on parole shall surrender to correctional home. If any, prisoner released on parole does not surrender to the correctional home, he shall be arrested by the police without warrant and handed over to the correctional home. He shall be produced for a trial before a Metropolitan Magistrate if the correctional home is situated at Calcutta or the CJM of the District in which the correctional home is situated. He shall be punished with imprisonment of a period not exceeding three years as the court may decide. The offence shall be cognizable and non-bailable such prisoner shall be released on his serving such further period of imprisonment as may be imposed on him. ¹⁰⁹

Section 108 of the Act repeals the Prisons Act, 1894, the Prisoner’s Act, 1900, The Identification of Prisoner’s Act, 1920, the Transfer of Prisoners Act 1950, and The Prisoner’s (Attendance in Courts) Act, 1955 in their application to West Bengal. ¹¹⁰

¹⁰⁹ Id. Section 63.
¹¹⁰ Id. Section 108.
3.1.7.5 The Narcotic Drugs and Psychotropic Substances Act, 1985

Section 32-A of the Narcotic Drugs and Psychotropic Substances Act, 1985 rules out suspension, remission or commutation of any sentence awarded under this Act. Section 32-A provides that subject to the provisions of Section 33, no sentence awarded under this Act (other than Section 27) shall be suspended or remitted or commuted. \(^{111}\)

In Dadu V. State of Maharashtra, \(^{112}\) it has been said that parole is not a suspension of the sentence. The convict continues to be serving the sentence despite granting parole under the statute, rules, jail manual or the Government Orders. Parole means the release of prisoner temporarily for a special purpose before the expiry of the sentence, on the promise of good behavior and return to jail.

Parole does not amount to the suspension, remission or commutation of sentence which could be withheld under the grab or Section 32A of the Narcotic Drugs and Psychotropic Substances Act. Despite the presence of Section 32-A, a convict is entitled to parole. However, a sentence awarded under the Act can be suspended by the appellate court according to the provisions of Section 37 of the Act,


\(^{112}\) AIR 2000 SC 3203.
3.1.7.6 The Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974

Section 12 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 provides for temporary release of persons detained. It provides that the central government may at any time direct that any person detained in pursuance of a detention order made by that government or by an officer subordinate to that government or by a state government may be released for any specified period. The person may be released either with or without conditions. The Government may at any time cancel his release.

According to Section 12 (2) that Government may require him to enter into bond with sureties for the due observance of the conditions laid down in the direction. Section 12 (3) provides that any person released shall surrender himself to the authority. Failure to surrender on the date without sufficient cause shall be punishable with imprisonment for term which may extend to two years or with fine or with both. If any person released fails to fulfill any one of the conditions imposed shall be liable to pay penalty. No person against whom the detention order made under this Act is in force shall be released whether on bail or bail bond or otherwise. 113

3.1.7.7 The Army Act, 1950

Chapter XIV of the Army Act, 1950 deals with Pardons, Remissions and Suspensions. Section 179 deals with remission, pardon and release of person on parole. According to this section when any person subject to this Act has been convicted by a court martial of any offence, the Central Government or [the Chief of the Army Staff] \(^ {114}\) or , in the case of sentence, which he could have confirmed or which did not require confirmation the officer commanding the army, army corps, division or independent brigade in which such person at the time of conviction was serving or the prescribed officer may either with or without conditions which the person sentenced accepts, release the person on parole. \(^ {115}\)

According to section 180, if any condition on which a person has been released on parole or pardoned or a punishment has been remitted is, not fulfilled, such authority may cancel the pardon, release or remission. Thereupon the sentence of the court shall be carried into effect as if such pardon, release or remission had not been granted. \(^ {116}\)

---

\(^{114}\) Substituted of Act 19 of 1955, Section 2 and Sch., for "The Commander-in-Chief".

\(^{115}\) Section 179, The Army Act, 1950.

\(^{116}\) Id. Section 180.
3.1.7.8 The Himachal Pradesh Good Conduct Prisoner’s (Temporary Release) Act, 1968

The Himachal Pradesh Good Conduct Prisoner’s (Temporary Release) Act, 1968 was passed in 1968 for the temporary release of prisoners for good conduct on certain conditions. This Act, which was enacted by Legislative Assembly of Himachal Pradesh in the nineteenth year of Republic of India, extends to the whole of the State of Himachal Pradesh.\(^{117}\)

Section 2 of the Act provides definitions of certain terms. According to Section 2(a) ‘District Magistrate’ means the District Magistrate of the District within whose jurisdiction the prisoner after his temporary release under this Act, is likely to reside during the period of his release.\(^{118}\)

Section 2(c) deals with ‘member of the prisoner’s family’ the husband, wife, son, daughter, father, mother, brother, or sister of the prisoner.\(^{119}\) According to section 2(g) ‘Prisoner’ means a person confined in prison under a sentence of imprisonment.\(^{120}\) According to Section 2(h) ‘Superintendent of Jail’ means the ‘Superintendent’ of jail in which the prisoner is undergoing his sentence of imprisonment.\(^{121}\)

---


\(^{118}\) Id. Section 2 (a).

\(^{119}\) Id. Section 2(c).

\(^{120}\) Id. Section 2(g).

\(^{121}\) Id. Section 2(h).
Section 3 of the Act deals with the Temporary release of prisoner’s on certain grounds. This section empowers the State Government, in consultation with the District Magistrate, to temporarily release for a specified period any prisoner, if the government is satisfied about the grounds mentioned in the said section. According to this section if a member of a prisoners family has died or is seriously ill or if the marriage of the prisoner’s daughter or son is to be celebrated or if the temporary release of the prisoner is necessary for ploughing, sowing or harvesting or carrying on any other agricultural operation on his land. The maximum period of release in case of death or serious illness shall be two weeks and in case of marriage or other sufficient cause, it shall be four weeks. In case of agricultural purpose, it shall be six weeks. The period of release shall not count towards the total period of the sentence of a prisoner.

Section 4 of the Act, which deals with temporary release of prisoners on furlough, empowers the State Government or any other officer authorized by it, in consultation with the District Magistrate, release temporarily, on furlough any prisoner who has been sentenced to a term of imprisonment of not less than five years and who has immediately before the date of his temporary release, undergone imprisonment for a period of three years excluding remission has not during such period committed any jail offence and has earned at least three annual good conduct

---

122 Id. Section 3.
remission. According to proviso that nothing herein contained shall apply to prisoners who is a habitual offender or has been convicted of robbery or dacoity or such other offences as the Government, may be notification specify.

Sub section (2) deal with the period of furlough for which a prisoner is eligible shall be three weeks during the first year of his release and two weeks during each successive year thereafter. Sub section (3) provides that the period of release shall count towards total period of the sentence of a prisoner. 123

Section 5 of the Act, which deals with the exclusion of certain days in computing period under Sections 3 & 4. For the purpose of calculating the period of temporary release of a prisoner under Sections 3 & 4, the days of departure from and arrival at the prison shall not be counted. 124 According to Section (6) that a prisoner shall not be entitled to be released under this Act, if on the report of the District Magistrate, the Government or any officer authorized by it is specified that his release likely to endanger the security of the State or the maintenance of public order. 125

Section 8 of the Act is concerned with the surrender of prisoners expiration of release period and consequences of over staying. According to Section 8(1), on the expiry of the period,

123 Id. Section 4.
124 Id. Section 5.
125 Id. Section 6.
the prisoner is to surrender himself to the superintendent of jail. Sub section (2) provides that if the date of surrender passes by ten days and prisoner does not surrender, he may be arrested by any police officer without warrant and shall be remanded to undergo the unexpired portion of the sentence. Sub section (3) provides that if prisoner surrenders within ten days, but fails to satisfy the Superintendent of jail that he was prevented by any sufficient cause from surrounding himself immediately on the expiry of the period for which he was released, all or any of the following penalties shall be awarded to him by the Superintendent of the jail, namely:

(a) a maximum cut of five days remission for each day of overstay;

(b) stoppage of canteen concession for a maximum period of one month;

(c) withholding concession of either interviews or letters or both for a maximum period of three months;

(d) the period of Temporary Release on furlough of the prisoner under Section 4 shall not be counted towards his sentence;

(e) warning; and

(f) reduction from the status and grade of 'convict watch man' or convict 'overseer'.

---

126 Id. Section 8.
According to Section (9), where a prisoner does not surrender within ten days from the due date and is liable to be arrested as stated in section 8(2), he shall be punishable with imprisonment of which may extend to two years or with fine or with both.  

Section 10 empowers the State Government to make rules in this connection. The rules touch various aspects including the conditions and the manner in which prisoner can be released temporarily under the Act. The rules were made in 1969 and are known as the Himachal Pradesh Good Conduct Prisoners' (Temporary Release) Rules, 1969.

Section 11 of the Act, which deals with the repeal and savings, it repeals the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 as in force in the area added to Himachal Pradesh under Section 5 of the Punjab Re-organization Act, 1966.

The Punjab Good Conducts Prisoner's (Temporary Release) Act, 1962 was passed in 1962 to provide for the temporary release of prisoners for good conduct on certain conditions. It consists of 11 sections and its provisions are same as those of the Himachal Act, 1968.

---

127 Id. Section 9.
128 Id. Section 10.
129 Id. Section 11.
3.1.7.9 Rules on Parole


The Himachal Pradesh Good Conduct Prisoner's (Temporary Release) Rules, 1969 have been made under Section 10 of the Himachal Pradesh Good Conduct (Temporary Release) Act, 1968.\(^\text{131}\) Rule 2(b) says that "form" means a form appended to these rules. \(^\text{132}\) Rule 2(c) says that "Inspector General" means the "Inspector General of prisons, Himachal Pradesh." \(^\text{133}\) Rule 2(d) says that 'Releasing Authority' means 'the Government or such other authority to whom the powers of the Government are delegated under sub-section 4 of Section 3 or sub section (1) of Section 4 of the Act'. \(^\text{134}\)

Rule 3(1) provides that a prisoner desirous of seeking temporary release under Section 3 or Section 4 of the Act shall make an application in Form 'A-1', form 'A-2' to the Superintendent of Jail. Such an application may be made by an adult member of the prisoner's family. \(^\text{135}\)

According to the Rule 3(2) the superintendent of jail shall forward the application along with his report to the D.M. of the District to which the prisoner belongs and he after consulting the

---

\(^{131}\) The Himachal Pradesh Good Conduct Prisoner's (Temporary Release) Rules, 1969.

\(^{132}\) Id. Rule 2(b).

\(^{133}\) Id. Rule 2(c).

\(^{134}\) Id. Rule 2(d).

\(^{135}\) Id. Rule 3(1).
Superintendent of police, shall forward the case with his recommendations to the Inspector General of prisons. He will record his views about the release of the prisoner and submit them to the releasing authority for orders. The D.M. before making any recommendation, has to verify the facts and grounds on which release has been requested. Rule 3(2) further provides that he shall also give his opinion whether the temporary release on parole or furlough is opposed on grounds of prisoners presence being dangerous to the security of state or maintenance of public order.  

According to Rule 3(3) if the releasing authority is satisfied that the prisoner is entitled to release under a duty signed and sealed warrant in the Form B ordering the temporary release of the prisoner, specifying, there in, period and place or places which the prisoner is allowed to visit. The amount of the surety or security bond shall not exceed twenty thousand rupees in each case.  

Rule 3(4) provides that on the receipt of release warrant the Superintendent of jail shall inform the prisoner concerned and the member of the prisoner’s family. A copy of the release warrant shall also be sent by him to the D.M. According to rule 3(5), on the receipt of the information from the DM, the Superintendent of

\[136\] Id. Rule 3(2).
\[137\] Id. Rule 3(3).
jail shall release the prisoner for a period, specified in the release warrant.\textsuperscript{138}

Rule 3(6) provides that the Superintendent of jail shall forward to the Officer-in-Charge of the police station within whose jurisdiction the prisoner is or are sent, a copy of the warrant and the release certificate in Form E. The Officer-in-Charge of the police station shall keep a watch on the conduct and activities of the prisoner and shall submit a report to the Superintendent of jail, who shall forward the same to the I.G.\textsuperscript{139}

Rule 3(7) provides that the date of release and the date of surrender shall be intimated by the superintendent of jail to the I.G. who will inform the Government accordingly.\textsuperscript{140}

Rule 4(1) provides that if the prisoner commits any offence during the period of his temporary release, the Officer-in-Charge of the police station shall, send a report to the Superintendent of jail and to the Superintendent of Police of the District. Rule 4(2) provides that on the receipt of such a report, the Superintendent of jail is to forward the same to the I.G. of prisons for being forwarding to the releasing authority he may cancel the release warrant\textsuperscript{141}

\textsuperscript{138} Id. Rule 3(4) & (5).
\textsuperscript{139} Id. Rule 3(6).
\textsuperscript{140} Id. Rule 3(7).
\textsuperscript{141} Id. Rule 4.
Rule 5 provides that if any major jail offence is committed by the prisoner between the date of application for release and the receipt of the warrant for such release, the Superintendent shall not release him without the previous approval of the I.G. if the approval is not given, the Superintendent of jail shall return the release warrant to the releasing authority and the releasing authority may on receipt of report, cancel the release warrant.  

Rule 7 provides that before a temporary release of the prisoner under the Act, the Superintendent of Jail, shall personally inform the prisoners about the date on which he is to surrender and consequences of the failure to do so. Rule (8) enacts special provisions for female prisoner.  

Rule (9) provides that a prisoner who is temporarily released under these rules shall be given a release certificate in Form E. A copy shall be retained in the jail record. Rule (10) provides that the forfeiture of the amounts of security/surety bonds shall be regulated under the provisions of Code of Criminal Procedure, 1898.  

3.2 ADMINISTRATIVE ASPECTS

3.2.1 Parole Board

Section 31-A of the Prisoners Act, 1900 deals with the constitution of District Parole Board. The Parole Board consists of

---

142 Id. Rule 5.
143 Id. Rule (7) & (8).
144 Id. Rule (9) & (10).
administrators who are from among the respectable members of the society. Parole Board shall be established for each district. A District Parole Board consists of the D.M., the Superintendent of Police, two members of the State Legislature to be nominated by the State Government and the Superintendent of the jail.  

In Himachal Pradesh, there is a State Sentence Review Board. It shall review the sentence awarded to the prisoners and recommend the premature release in appropriate cases. The Review Board is permanent body consisting of Secretary (Home) as Chairman and DG/ADG/IGP as members. Its structure is as follows:

<table>
<thead>
<tr>
<th>Table No.3.2.1 Composition of Sentence Review Board</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Secretary (Home)</td>
</tr>
<tr>
<td>2 Secretary Law-cum-Legal Remembrances</td>
</tr>
<tr>
<td>3 A District &amp; Session Judge nominated by High Court</td>
</tr>
<tr>
<td>4 Chief Probation Officer</td>
</tr>
<tr>
<td>5 A senior police officer nominated by D.G. of police not below the rank of I.G. of police</td>
</tr>
<tr>
<td>6 D.G/A.D.G./I.G of Prison</td>
</tr>
</tbody>
</table>

The Sentence Review Board shall meet at least once in a quarter at the state headquarters on the date to be notified to members at least 10 days in advance with complete agenda papers.  

---

(A) The Major Powers of the Board Include:

- Authority to determine the date of parole eligibility for those committed indeterminate sentence;
- To grant parole at its discretion;
- To prescribe terms & conditions governing the prisoner while on parole;
- To issue warrants to recommit the parole;
- To revoke parole;
- To modify the conditions of supervision;
- To re-parole or release on mandatory release; and
- To conduct administrative hearings on certain applications.\(^{147}\)

(B) The Guidelines of the Board are:

- Eligibility of the prisoner;
- His observing the rules of the prison; and
- The reasonable probability of the persons remaining at liberty without violating the law.\(^{148}\)

The American Correctional Association States in regard to a qualified Parole Board that a member should have the following:

1 Personality: He must be an integrity, intelligence and good judgement as to command respect and public confidence.

---

\(^{147}\) V.V. Devasia and Leelamma Devasia, *Criminology, Victomology and Corrections*, 158-59 (1st imp., 1992).

\(^{148}\) Ibid.
2 **Education:** A Board member should have an educational background broad enough to provide him with knowledge of those professions most closely related to parole administration.

3 **Experience:** He must have intimate knowledge of common situations and problems confronting offenders. This must be obtained from a variety of fields, such as probation, the judiciary, Law, social work, a correctional institution, a delinquency prevention agency, etc.

4 **Others:** He should not be an officer of a political party or seek or hold office while a member of the Board.  

3.2.2 Parole Hearing

Releasing authority can also achieve more rational decision making by improving their hearing procedures. Improvements must promote fairness and regularity as well as effective correctional treatment. The other aim of hearing is to create conditions which enhance to treatment goals for an inmate.  

Parole is a ‘conditional liberation’ that is liberation on condition that the prisoner live in accordance with specified rules. The conditions are sometimes fixed by law, sometimes by the parole Board and sometimes by the other agencies. These conditions may include such as, leading of law abiding life, abstaining from

---

149 Id. at 159-60.
150 Ibid.
intoxicating liquors or drugs, keeping away from bad associates, remaining in specified territories etc. \textsuperscript{151}

(I) General Parole Conditions can be Grouped into two Main Types

Reform conditions that urge the parole toward a non criminal way of life and control conditions that make it possible for the social workers to help him. Some of the most common examples of each type are:

(a) Reform Conditions

- Comply with the laws
- Maintain employment and support dependents
- Refrain from use of drugs.

(b) Control Conditions

- Report to parole officer upon release
- Cooperate with the parole officer
- Get permission to change employment or residence.\textsuperscript{152}

3.2.3 The Mechanics of Parole

Good parole practice involves three fundamental things:

(I) Preparation (II) Selection, and (III) Supervision.

(I) Preparation

Preparation for parole should be begin when the prisoner enters into the prison conscientious preparation is essential to a

\textsuperscript{151} Sutherland & Cressy, \textit{Principles of Criminology}, 571 (6\textsuperscript{th} ed. 1968).

\textsuperscript{152} Supra note 147 at 161.
well planned system of parole. Each prisoner is entitled to an honest parole plan. In institution where trained personnel are employed for this specific purpose, parole ceases to be a defective system and gradually develops into a nature where there is a professionally trained staff of social workers, psychiatrist, psychologists and other concerned with the task of understanding the prisoner, preparation for parole usually begins to function immediately. Initial examinations and interviews are made, inmate replies are systematically checked through community agencies; reports from physician, director of prison industry, educational director and other staff members are scrutinized and recorded in the individuals inmates life all this and more completes preparation. Thus, mere experimentation not sufficient. But a closer security of prospective parolee is necessary to understand his personality.

(II) Parole Selection

Prisoner who is expected to return to society should be selected for parole. Professor Siddique notes that according to some writers many prisoners are not able to have benefit of parole in India. It is partly due to rigidity of parole rules and partly due to apathy of parole rules. He refuses to the study made by Nirmla Advani for the finding that during the study period only

---

two person had been released on parole.\textsuperscript{154} It is better to release prisoner before the complication of the term. It is not done, the prisoner released after expiration of the sentence goes in society without supervision if he is denied parole several times, he is either broken in spirit or display embittered against society, in both the cases it become a social liability. No one can apply for parole unless he has spent the time behind prison bars required by law. The General practice is that all are eligible to apply for parole if minimum prescribed sentence has expired.\textsuperscript{155}

(III) Supervision of Paroles

According to the Manual of correctional standard (1954) every person released from a prison should be released under supervision.\textsuperscript{156} The focus point for the success of parole system is proper supervision. Without intelligent, trained supervisors, it is not possible. All prisoners should be released with some restrictions. It is also important to have enough supervisors who understand the responsibility of supervision. Supervision does not mean espionage. The parole officer should understand individuals particular problem due to his term in prison. His success depends largely upon his own ability. A society, neighbourers, family, friends and acquaintance must be convinced that he is going straight. The main object of the parole is rehabilitation of the

\textsuperscript{154} Ahamad Siddquie \textit{Criminology: Problem & Perspectives}, 214, (4\textsuperscript{th} ed. 1977).

\textsuperscript{155} Supra note 154 at 7.

\textsuperscript{156} Supra note 147 at 162.
offenders and protection of the society from his activities at the
same time.  

3.2.4 Functioning

The members of parole Board are assigned the function of
discharging convicted prisoners on parole after careful scrutiny.
Though Parole Board administration decisions on parole of
prisoners. However, the Board performs a quasi-judicial function.
It is the function of parole personnel to prepare a case history of
parolees and help and advise them in the process of the
rehabilitation. Field workers also function outside the prisons.
These field personnel keep a close supervision over parolees.
They report the cases of parole violations to the parole
authorities. Thus the parole organization by and large consists of
three agencies viz., the parole Board, the case investigators and
the parole supervisors. They work in close liason with each
others.  

3.2.5 Parole Order

The legal position in Himachal Pradesh in the context of
temporary release may be briefly explained with the help of
relevant Act and rules made there under. It may be made in the
form of Form ‘A-1’ Form ‘A-2’, Form ‘B’, Form ‘C’, Form ‘D’ and


Form 'E'. \textsuperscript{159} A prisoner desirous of seeking temporary release under Sections 3 or 4 of The Himachal Pradesh Good Conduct Prisoner's (Temporary Release) Act, 1968, shall make an application in Form 'A-1', Form 'A-2', to the Superintendent of jail. Such application may also be made by an adult member of the prisoner family. If the Releasing Authority is satisfied that the prisoner is entitled under the Act, it may issue to the Superintendent of jail through the IG a duly signed and sealed warrant in Form 'B'. Ordering the temporary release of the prisoner, specifying therein, the period of release of the prisoner, the place or places which the prisoner is allowed to visit during the period of such release. At the expiry of the period, he shall surrender himself to the Superintendent of the jail to undergo the unexpired portion of his sentence. Before his release on parole or furlough the security bond or surety bond shall be furnished by the prisoner in forms 'C' and 'D' respectively. On the receipt of the information from DM that the necessary bonds have been furnished, the Superintendent of jail shall release the prisoner for such a period specified in the release warrant. A prisoner who is temporarily release shall be given a release certificate in the Form 'E'. A copy shall be retained in the jail record. The Superintendent of jail shall also forward to the Officer-in-Charge of the police station with in whose jurisdiction the place or places

\textsuperscript{159} For Forms see Appendix II.
to be visited by the prisoner is or are situated, a copy of warrant
and the release certificate in Form ‘E’.¹⁶⁰

3.2.6 Appraisal of Parole

Parole is a release procedure. It is regarded as of the
munificent mode of handling the offenders. Although it is intended
to reform and rehabilitate the offenders in society. But the system
does not appear to have grown fully. The prisons are rigid and
unclear. The lack of systematic information is detrimental to the
interest of the prisoners. Many prisoners do not get the benefit of
parole or furlough. Prof Siddique observes:

In her study of the situation in the state of Rajasthan,
Nirmla Advani found that only two prisoners had been released on
parole during the entire period covered by the study. In
Maharashtra, 95,449 prisoners were admitted to prisons in 1970,
out of whom 1,117 applied for parole and 718 were released on
parole. In the same year 1,160 prisoners applied for furlough and
it was sanctioned in 1718 cases. From these figures it appears
that the percentage of prisoners who applied for parole or
furlough and got it fairly high that is around 65, but the low
number of actual applicant might to same extent be due to the
total prison population eligible for release under the rule.¹⁶¹

¹⁶⁰See Rule 3 of the Himachal Pradesh Good Conduct Prisoner’s (Temporary Release)
Rules, 1969.
¹⁶¹Supra note 154 at 214-15.
Comments may be made on the working of parole board. These board face political and executive influences. And, it happens due to quasi-judicial nature of the Board because of that many undeserving prisoners are released on parole. Another difficulty is that the benefit of parole is not availed of by all prisoners. Prisoner's should be sensitized about the benefit of parole. Parole is granted subject to certain conditions. The violation of conditions forfeits parole and parolee is liable to be punished. If supervision is not effective it becomes difficult to detect violators. When the parole period is over, the prisoner is to surrender on due dates. The researcher has been informed that many cases even this goes untouched.

\[^{162} \text{Supra note 158 at 338.}\]