

# Parole as a Reformatory Tool: A Critical Evaluation of Its Role in the Modern Criminal Justice System

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## ABSTRACT-

Parole refers to the conditional release of a prisoner before the completion of their sentence, based on certain conditions and good conduct. It is an important feature of the modern criminal justice system because it reflects a shift from punishment to reformation. Instead of treating offenders only as subjects of punishment, parole recognises the possibility of change and helps in their gradual reintegration into society. It also plays a practical role in reducing prison overcrowding and encouraging discipline among inmates.

However, the working of parole in practice raises several concerns. There is often inconsistency in how it is granted, largely due to wide discretionary powers given to authorities. This can lead to unequal treatment of prisoners and lack of transparency in decision-making. In many cases, the reformatory purpose of parole is not fully achieved because of delays, vague guidelines, and administrative issues.

This paper uses a doctrinal and comparative method to study the legal framework and examine how other jurisdictions approach parole. It argues that while parole has strong reformatory potential, there is a clear need for more structured and consistent reforms.

## INTRODUCTION

The idea of punishment in criminal law has not remained the same over time. Earlier, the focus was mainly on retribution—punishing the offender for the wrong committed. Over time, however, this approach has gradually shifted towards a more reformatory model, where the aim is not just to punish but also to rehabilitate the offender and prepare them to return to society. This change reflects a broader understanding that crime is not always just an individual failure, but can also be linked to social and economic factors. Within this shift, parole has emerged as an important tool in the criminal justice system.

Parole, in simple terms, refers to the conditional release of a prisoner before the completion of their sentence, subject to certain terms and supervision. It is not an absolute right, but a privilege granted on the basis of good conduct and the possibility that the person can reintegrate into society without posing a risk. The idea behind parole is to create a balance between continued punishment and gradual re-entry into normal life, instead of a sudden release after long incarceration.

In the Indian context, parole holds particular significance. Prisons in India are often overcrowded, and the system faces challenges in terms of resources and management. Parole can help reduce this burden while also encouraging prisoners to maintain discipline and engage in reformatory activities. It is also seen as a humane measure, recognising that even those who have committed offences retain certain basic rights and the capacity for change.

However, despite its intended purpose, the actual implementation of parole raises several concerns. There is often a visible gap between what parole is supposed to achieve and how it works in practice. Decisions regarding grant or denial of parole are largely discretionary, which can lead to inconsistency and lack of uniform standards. In some cases, similarly placed prisoners are treated differently without clear justification. Delays, procedural complexities, and absence of clear guidelines further weaken its effectiveness as a reformatory measure.

Against this background, this paper attempts to critically examine parole as a reformatory tool within the modern criminal justice system. It focuses on understanding whether parole, as it currently operates, truly fulfils its rehabilitative purpose. Using a doctrinal and comparative approach, the paper analyses the existing legal framework and identifies the gaps that continue to exist between theory and practice.

## RESEARCH PROBLEM & OBJECTIVES

Parole is often presented as a reformative measure within the criminal justice system, aimed at rehabilitating offenders and helping them reintegrate into society. However, in the Indian context, there seems to be a noticeable gap between what parole is supposed to achieve and how it actually functions in practice. Although the idea behind parole is grounded in reformation, its implementation is not supported by a uniform legal framework. There is no single comprehensive legislation governing parole in India, and the process largely depends on state-specific rules and administrative discretion.

This wide discretion often results in inconsistency, lack of transparency, and unequal treatment of similarly placed prisoners. Studies have also pointed out that parole decision-making can sometimes become arbitrary or influenced by extralegal factors, which weakens its credibility as a fair and reformative tool. At the same time, issues such as prison overcrowding and lack of effective rehabilitation mechanisms further limit the actual impact of parole as a reformative measure.

Against this background, the core problem addressed in this paper is whether parole in India truly functions as a reformative mechanism or remains largely a discretionary administrative practice without consistent standards.

The objectives of this paper are:

- To examine parole as a reformative tool within the criminal justice system.
- To analyse the existing legal and administrative framework governing parole in India.
- To identify gaps between the theoretical objectives and practical implementation of parole.
- To suggest reforms for making the parole system more fair, consistent, and effective.

## THEORETICAL FRAMEWORK: REFORMATIVE THEORY & PAROLE

The justification of punishment in criminal law has gradually moved beyond the narrow idea of retribution. While retribution focuses on the notion that an offender must suffer in proportion to the harm caused, it does not fully explain the larger purpose of punishment in a modern legal system. If punishment is only about inflicting suffering, it risks becoming purely backward-looking. It addresses the past act, but says very little about the future—whether the individual will reoffend, or whether society is better protected in the long run. This limitation has led to the development and acceptance of the reformative theory of punishment.

The reformative approach is based on a different starting point. It does not deny that an offence has been committed, but it shifts attention to the individual behind the act. It assumes that criminal behaviour is not always permanent or unchangeable. Social conditions, personal circumstances, and lack of opportunities often play a role in shaping such behaviour. If that is the case, then punishment cannot be limited to mere retaliation. It must also create conditions where change is possible. In this sense, punishment is not just about accountability, but also about transformation.

Seen in this light, punishment and reformation are not opposites. They operate together. The restriction of liberty through imprisonment still serves a penal function, but within that space, the system is expected to work towards reform. Education, vocational training, counselling, and behavioural discipline are all part of this broader idea. The legitimacy of punishment, therefore, increasingly depends on whether it contributes to reducing future harm, not just responding to past wrongdoing.

Parole fits into this framework in a very specific way. It represents a stage where the focus shifts more clearly from confinement to reintegration. Instead of treating release as a sudden and absolute event, parole introduces the idea of a gradual return to society. In that sense, it can be understood as a “controlled transition.” The individual is not fully free, but is no longer entirely confined either. Conditions are imposed, supervision continues, and compliance becomes a test of readiness for complete release.

This is why parole should not be seen as an act of leniency. It is better understood as structured rehabilitation. The conditions attached to parole—such as reporting requirements, restrictions on movement, or maintaining good conduct—are not concessions, but mechanisms to ensure that the process of reintegration remains accountable. The individual is given limited freedom, but within a framework that monitors behaviour and encourages responsibility.

At a conceptual level, parole also reflects a deeper shift in how the state views its role. Instead of withdrawing control at the prison gate, the state continues to engage with the individual during the transition phase. This reduces the risk associated with abrupt release, where a person moves from complete confinement to complete freedom without any intermediate support or supervision. A controlled transition allows both the individual and the system to adjust gradually.

At the same time, the effectiveness of this model depends on how it is implemented. If parole is treated merely as an administrative concession or a discretionary privilege, its reformative value weakens. For it to align with the reformative theory, it must operate within a consistent and principled framework, where the focus remains on rehabilitation rather than arbitrary decision-making.

In this way, parole becomes more than a procedural step in sentence administration. It becomes a key element of a broader philosophy of punishment—one that recognises that accountability and reform are not mutually exclusive, but are, in fact, closely connected.

## LEGAL FRAMEWORK OF PAROLE IN INDIA

The legal framework governing parole in India does not emerge from a single, unified statute. Instead, it is spread across colonial-era legislation, executive guidelines, and state-level prison rules. This fragmented structure itself raises an important question: whether a measure that is so closely linked to personal liberty should depend largely on administrative discretion rather than a clear statutory scheme. Understanding this framework, therefore, is not just about identifying the sources of law, but also about examining how they interact and where they fall short.

The Prisons Act, 1894 remains the foundational legislation governing prisons in India. However, it does not explicitly codify parole as a right or even as a detailed procedure. The Act primarily deals with prison administration, discipline, and management of inmates. As a result, parole operates more as an executive function derived from the general powers of prison authorities rather than a clearly defined legal entitlement. This creates an inherent ambiguity—while parole exists in practice, its legal basis within the statute is indirect and limited.

To address some of these gaps, the Model Prison Manual, 2016 provides a more structured framework. It lays down guidelines on eligibility, conditions, and procedures for granting parole and furlough. It also recognises the reformatory purpose behind such measures, linking them to rehabilitation and reintegration. However, the Manual itself is not binding law. It serves as a guiding document for states, which means its effectiveness depends on the extent to which individual states adopt or adapt its provisions.

This brings into focus the role of State Prison Rules. Since “prisons” fall under the State List, each state frames its own rules governing parole. While this allows flexibility, it also leads to significant variation across jurisdictions. The criteria for eligibility, duration of parole, procedural safeguards, and grounds for rejection can differ from one state to another. In practice, this results in similarly placed prisoners being treated differently depending on where they are incarcerated. Such variation raises concerns not only about administrative consistency but also about fairness in the broader constitutional sense.

The constitutional dimension becomes particularly relevant here. Article 14 of the Constitution of India guarantees equality before the law and equal protection of the laws. When parole decisions vary widely without clear and uniform standards, questions arise as to whether this equality principle is being upheld. Discretion, by itself, is not unconstitutional, but unchecked or unguided discretion can lead to arbitrary outcomes, which Article 14 seeks to prevent.

Similarly, Article 21 of the Constitution of India plays a crucial role in shaping the understanding of parole. The right to life and personal liberty has been interpreted broadly to include dignity, humane treatment, and the possibility of rehabilitation. Within this expanded interpretation, parole can be seen as connected to the idea that incarceration does not completely extinguish a person’s fundamental rights. However, since parole is not recognised as an absolute right, its denial does not automatically amount to a violation of Article 21. This creates a delicate balance—parole is linked to liberty, yet it remains subject to administrative control.

The judiciary has attempted to navigate this balance by emphasising fairness and reasonableness in decision-making. Courts have, in several instances, intervened where parole has been denied arbitrarily or without proper consideration. At the same time, they have generally refrained from treating parole as a matter of right, recognising the need for administrative assessment based on security and conduct. This limited but significant role of the judiciary highlights an important point: while courts can correct extreme cases, they cannot substitute a comprehensive legal framework.

Overall, the legal structure of parole in India reflects a tension between reformatory ideals and administrative realities. On paper, parole is linked to rehabilitation and reintegration. In practice, it operates within a fragmented and discretionary system. The absence of a uniform statutory framework, combined with variations in state rules, makes the system uneven and, at times, unpredictable. This gap between principle and implementation suggests that the issue is not the absence of law, but the lack of coherence within it.

## PAROLE AS A REFORMATORY MECHANISM

If the reformatory theory of punishment is taken seriously, then the focus cannot stop at incarceration. The real test lies in what happens after a person has spent time in prison—whether they are able to return to society in a stable and lawful manner. In this context, parole becomes more than just a procedural device; it becomes a practical extension of the reformatory approach. It operates in the space between punishment and freedom, where the possibility of change is actually tested.

One of the central justifications for parole lies in its role in rehabilitation. Rehabilitation is often spoken about within prison walls through education, counselling, or skill development programmes. However, these efforts remain incomplete if they are not followed by a structured opportunity to apply them outside. Parole creates that opportunity. It allows the individual to step out, even if temporarily, and engage with the real world under supervision. This shift from a controlled institutional environment to a partially open one is important because it introduces responsibility. The individual is no longer just following prison discipline, but is expected to make independent choices within defined limits.

Closely connected to this is the idea of reintegration. A person who has been isolated from society for a long period cannot be expected to adjust immediately upon release. Sudden and complete freedom can, in fact, be destabilising. Parole addresses this by functioning as a gradual process rather than a one-time event. It allows the individual to reconnect with everyday life—finding work, interacting with people, and understanding social expectations again. In that sense, parole acts as a bridge, reducing the shock of transition from prison life to social life.

Family support also plays a significant role in this process. In many cases, the family becomes the primary support system for a person after release. Parole enables the maintenance of these relationships even during the period of incarceration. Regular contact with family members can provide emotional stability and a sense of belonging, both of which are important for behavioural change. It also creates a form of informal accountability. When individuals know that they are returning to a family environment, they may be more inclined to avoid conduct that could lead to re-incarceration. At the same time, it must be recognised that not all family environments are supportive. This makes it important that parole decisions are sensitive to individual circumstances rather than being applied mechanically.

Another important aspect is the reduction of recidivism. The risk of reoffending is often linked to the difficulties faced after release—lack of employment, social stigma, and absence of support structures. Parole, by providing a controlled and supervised release, can help address some of these challenges early on. It allows authorities to monitor behaviour and intervene if necessary, while also giving the individual a chance to stabilise their life. The idea is not that parole guarantees reform, but that it creates conditions where reform is more likely compared to an abrupt and unsupported release.

Parole also has a practical impact on prison overcrowding, which remains a persistent issue in India. Overcrowded prisons not only strain resources but also limit the effectiveness of any reformative programmes. When parole is used effectively, it can ease this pressure by allowing eligible prisoners to spend time outside under supervision. However, this benefit should be seen as secondary. If parole is used primarily as a tool for managing overcrowding rather than as a reformative measure, its underlying purpose risks being diluted.

At a conceptual level, what ties all these aspects together is the idea that parole is not an act of leniency but a form of structured rehabilitation. The conditions attached to parole are not merely restrictions; they are part of a system that seeks to balance freedom with responsibility. The individual is trusted, but that trust is conditional and monitored. This conditionality is what differentiates parole from unconditional release and gives it its reformative character.

At the same time, the effectiveness of parole as a reformative mechanism depends heavily on how it is implemented. If it is granted or denied arbitrarily, or if the conditions imposed are unrealistic, the entire process can lose credibility. For parole to genuinely contribute to rehabilitation and reintegration, it must operate within a framework that is consistent, fair, and responsive to individual circumstances.

In this sense, parole reflects both the promise and the limitations of the reformative approach. It shows how the criminal justice system can move beyond punishment, but it also highlights that without proper structure and oversight, even well-intentioned mechanisms may fail to achieve their purpose.

## CHALLENGES AND CRITICISM

While parole is often justified as a reformative measure, its actual functioning raises a number of concerns. These are not minor procedural gaps, but structural issues that affect how fair and effective the system really is. A closer look shows that the problem is not with the idea of parole itself, but with the way it is designed and implemented.

### (a) Lack of Uniform Law

One of the most basic issues is the absence of a single, uniform law governing parole in India. Instead of a central statute, the system operates through a mix of prison manuals and state-specific rules. This leads to variation in eligibility criteria, duration, and procedure across states. As a result, two similarly placed prisoners may be treated differently depending on where they are lodged. This kind of inconsistency weakens the legitimacy of the system. When a measure connected to personal liberty depends on location rather than principle, it raises serious concerns about fairness.

### (b) Administrative Discretion

Parole decisions largely depend on administrative authorities, and the scope of discretion is quite wide. While some level of discretion is necessary, the problem arises when it is not guided by clear standards. In practice, decisions can appear inconsistent or insufficiently reasoned. There is often limited transparency in how factors like “good conduct” or “risk” are assessed. This creates space for arbitrary outcomes. The issue is not that discretion exists, but that it operates without enough checks, making the process unpredictable.

### (c) Delay & Bureaucracy

Another major issue is delay. The process of applying for parole involves multiple levels of approval, verification, and documentation. In many cases, by the time a decision is made, the purpose of seeking parole may no longer remain relevant. For instance, requests based on urgent personal grounds may lose meaning due to administrative delay. This procedural rigidity reduces parole to a slow and formal exercise rather than a responsive mechanism. It also discourages prisoners from relying on it as a genuine option.

### (d) Misuse & Inequality

There are also concerns about unequal access and possible misuse. It is often observed that prisoners with better resources, legal assistance, or social connections are more likely to secure parole. On the other hand, those who lack awareness or support may struggle to navigate the process. This creates an imbalance where access to parole is not purely based on eligibility or conduct, but also on external factors. At the same time, instances of misuse—where parole conditions are violated—are sometimes highlighted

to justify stricter controls. However, focusing only on misuse without addressing inequality risks making the system more restrictive rather than more fair.

(e) Lack of Post-release Support

Even when parole is granted, there is limited institutional support available after release. The system assumes that once a person steps out, they will manage reintegration on their own or with family support. In reality, many individuals face difficulties such as lack of employment, social stigma, and absence of guidance. Without proper follow-up mechanisms, the reformative potential of parole remains incomplete. Supervision tends to focus more on compliance than on assistance, which limits its effectiveness as a rehabilitative tool.

Taken together, these issues show that parole, as it currently operates, falls short of its reformative promise. The gap is not just between law and practice, but between intention and outcome. Unless these structural concerns are addressed, parole risks being seen less as a meaningful reformative measure and more as an inconsistent administrative practice.

## COMPARATIVE ANALYSIS

Looking at how other jurisdictions deal with parole helps in putting the Indian system in perspective. The idea is not to suggest that one model can be directly transplanted into another context, but to identify certain features that seem to work better and understand what may be missing in India's approach.

In the United States, parole is generally administered through structured parole boards. These boards are usually independent or semi-independent bodies that assess applications on the basis of clearly identified factors such as conduct in prison, risk of reoffending, and readiness for release. The decision-making process, at least in principle, is more institutionalised. There are hearings, recorded reasons, and in some cases, opportunities for review. This does not mean the system is free from criticism—there are still concerns about bias and inconsistency—but the existence of a specialised body gives the process a certain level of structure. Compared to this, India largely relies on administrative authorities within the prison system itself, which can blur the line between management and adjudication.

The United Kingdom follows a more risk-based approach. Decisions relating to release are closely tied to risk assessment, often using professional evaluations and structured tools. The focus is not only on past behaviour, but on the likelihood of future harm. In this sense, parole is less about reward for good conduct and more about managing risk in a controlled way. This approach also involves continued supervision and monitoring after release, which is treated as an integral part of the system. In India, although risk is considered in a general sense, there is no uniformly applied method of assessment. The process tends to be less formalised, which can make outcomes appear subjective.

Canada, on the other hand, places a strong emphasis on rehabilitation as a continuous process. Parole is seen as part of a broader correctional strategy that begins within the prison and continues after release. There is a noticeable focus on support systems—counselling, community programmes, and supervised reintegration. The underlying idea is that release without support increases the chances of reoffending, whereas structured assistance improves long-term outcomes. In contrast, the Indian system often treats parole as a temporary release rather than as a stage within a larger rehabilitative plan. Post-release support remains limited, and supervision tends to focus more on compliance than on assistance.

What emerges from this comparison is not that India lacks the concept of parole, but that it lacks a coherent structure around it. Systems like those in the United States and the United Kingdom show the importance of clear procedures, recorded reasoning, and structured assessment. The Canadian approach highlights the role of continued support and rehabilitation beyond release. In India, these elements exist in fragments, but they are not consistently integrated into a single framework.

The key difference, therefore, lies in how parole is treated. In many of these jurisdictions, it is part of a planned and monitored transition process. In India, it often appears as a discretionary and somewhat isolated decision. This gap suggests that the issue is less about introducing new ideas and more about strengthening the existing system with greater consistency, transparency, and support mechanisms.

## SUGGESTION AND REFORM

If parole is to function as a meaningful reformative measure, the focus has to shift from ad hoc decision-making to a more structured and consistent system. The issues identified earlier are not beyond repair; most of them can be addressed through targeted reforms that strengthen both the legal framework and its implementation.

To begin with, there is a strong need for a uniform parole law at the national level. At present, the reliance on state-specific rules leads to uneven standards and outcomes. A central framework, even if it allows some flexibility to states, would help in laying down minimum standards for eligibility, procedure, and safeguards. This would reduce arbitrariness and ensure that similarly placed individuals are treated in a broadly similar manner across jurisdictions.

Another important reform is the creation of independent parole boards. Instead of leaving decisions entirely to prison authorities, a specialised body with a mix of administrative and expert members can bring greater objectivity to the process. Such boards can

ensure that decisions are based on defined criteria, with recorded reasons, rather than informal assessments. This would also improve transparency and accountability, which are currently limited.

The issue of delay can be addressed by introducing time-bound decision-making. Clear timelines for processing applications, along with accountability for unnecessary delays, would make the system more responsive. In cases where parole is sought for urgent reasons, expedited procedures should be available so that the purpose of parole is not defeated by procedural inefficiency.

At the same time, reform cannot stop at the point of release. There is a need to strengthen rehabilitation programmes linked to parole. This includes access to counselling, skill development, and employment support, both during incarceration and after temporary release. Without such support, the idea of reintegration remains incomplete.

Finally, a more effective monitoring system is required, but one that balances supervision with support. Monitoring should not be limited to checking compliance with conditions; it should also involve guidance and assistance where needed. Community-based supervision models, where local agencies or support groups are involved, can help in making this process more meaningful.

Taken together, these reforms suggest that the problem is not with the concept of parole itself, but with the lack of structure around it. With clearer laws, independent oversight, timely procedures, and better support systems, parole can move closer to its intended role as a genuine reformative mechanism rather than a discretionary administrative practice.

## CONCLUSION

Parole, as discussed throughout this paper, occupies an important place within the modern understanding of criminal justice. It reflects a shift away from viewing punishment as mere retribution and towards recognising the possibility of reform and reintegration. In theory, it offers a balanced approach—holding individuals accountable for their actions while also giving them a structured opportunity to return to society. In that sense, parole is not just a procedural mechanism, but an expression of a broader commitment to a more humane and forward-looking system of justice.

However, the position in India shows a clear gap between this ideal and actual practice. While parole exists and is regularly used, it operates within a fragmented and largely discretionary framework. The absence of a uniform law, variations across states, delays in decision-making, and limited post-release support all point to a system that is not fully aligned with its reformative purpose. What is intended as a tool for rehabilitation often ends up functioning as an inconsistent administrative process.

This does not mean that parole lacks value. On the contrary, it remains a necessary component of any system that claims to prioritise reformation. It helps ease the transition from prison to society, maintains social and family ties, and can contribute to reducing repeat offences when properly implemented. The problem, therefore, is not with the concept itself, but with the way it is structured and applied.

For parole to fulfil its intended role, there is a need for more coherent and principled reform. This includes clearer legal standards, more transparent decision-making, and stronger support systems for individuals during and after release. Without such changes, the reformative promise of parole will remain only partially realised.

At a broader level, the issue also connects to the idea of justice and dignity. A system that recognises the capacity for change and provides meaningful opportunities for reintegration is more likely to be both fair and effective. Strengthening parole, therefore, is not just about improving prison administration, but about reinforcing the values that underlie the criminal justice system itself.

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