

## **GROUP 2**

### **EARLY RELEASE OF PRISONERS TO FACILITATE THEIR RE-INTEGRATION INTO SOCIETY: THE ACTUAL SITUATION, PROBLEMS AND COUNTERMEASURES**

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#### **I. INTRODUCTION**

This group consisted of 8 participants from Bangladesh, Botswana, Japan, Nepal, Pakistan and Philippines. The group is composed of an Assistant Judge, a Psychologist, Social Worker, Police Officer, an Under Secretary, Probation Officer and 2 Prison Officers. The group was assigned to study and present a detailed report on the above subject, keeping in view the following points:

- i) selection of early release candidates in balance with the risk of recidivism;
- ii) time of early release to facilitate the reintegration of prisoners into society in balance with the execution of sentence as a punishment;
- iii) adjustment and/or improvement of the living environment to which prisoners will return after their release from prison;
- iv) composition of the decision making body for prisoners' early release.

In an effort to facilitate the prisoners' smooth re-integration into the mainstream of society upon their release, many countries have adopted remission, parole, pardon, amnesty, extra mural employment/

labour etc, as early release measures. It is necessary to point out here that there are two types of extra mural employment/labour existing in some of the participants' countries. In one, prisoners are allowed to go out from the prison for work or labour, and they come back in the evening to the prison. This type of extra mural employment/labour cannot be considered an early release measure. However, in some countries, prisoners are released from prison to work in the community under supervision, and they are not required to come back to the prison. In this paper, only this latter type of extra mural employment/labour is discussed as an early release measure.

However, these early release measures are confronted with many problems in the participants' countries such as:

- i) improper selection of early release candidates in balance with the risk of recidivism;
- ii) timing of early release;
- iii) consideration of living environment to which prisoner will return after release;
- iv) inappropriate composition of decision

- making body;
- v) negative public perception;
- vi) lengthy procedure involved; and
- vii) inadequate trained staff to supervise the releases.

It has been recognized, through research studies, that prolonged imprisonment does not serve the purpose of the reformation of prisoners. Rather, it has been observed that the early release of prisoners increases the chance of reformation and rehabilitation, and also the risk of their recidivism decreases. As such, the release of an inmate before the expiry of his/her sentence, under supervision, is seen as a logical step in the total correctional process; designed particularly to assist the prisoner to become a productive, useful and law-abiding citizen. It is believed that the conditions imposed upon their release are close to those they will again experience as a free citizen after the expiration of their sentence. At the same time, for a prisoner, early release is an opportunity to test their self-control and ability to adjust in the community. For society, it offers immediate protection through a degree of control over the prisoner's behavior and long term protection through a reduced likelihood of recidivism.

However, offenders can best be helped to become law-abiding citizens in the community rather than in prison. The most important aspect of the early release measure is its efficacy; when well administered it assists the prisoner to successfully re-adjust into community living.

This report covers the aims and objectives of the early release system; the actual situation, and problems and countermeasures existing in the early release systems of all participating countries. Conclusions will be reached on the basis of the detailed study of actual situations and problems existing in the participants' countries.

## **II. AIMS AND OBJECTIVES**

### **A. To Help in the Prisoners Reintegration and Adjustment in Society**

Prisoners, especially those who have been incarcerated for long periods, often find it difficult to readjust to life in the community. Therefore, early release under any circumstances must provide a means whereby a prisoner may make a smooth transition from prison life to living in the community. With some degree of supervision this will reduce the incidence of criminal behavior and recidivism, while at the same time ensuring the safety of our communities.

### **B. To Act as an Incentive for Good Behavior**

The granting of early release to inmates based on good behavior serves as an incentive to the prisoners. It helps most prisoners to make an effort to be of good behavior and improve their discipline by observing rules and regulations in anticipation of an early release. On the other hand, prison officials are assured that with this kind of incentive, it is expected that there will be fewer incidences of jail disturbances such as riots, noise barrage, escapes, etc.

### **C. To Decrease Prison and Jail Overcrowding**

Some correctional administrators are confronted with prison overcrowding, which poses more problems and has a great influence in the decisions made in the criminal justice system. Therefore, early release measures on the practical side, are seen as a temporary solution to alleviate this problem. However, this should not be seen as the major objective, as the prisoners' re-integration into the society should be of paramount consideration.

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**D. To Cut the Costs of Maintenance**

A major justification generally given in support of the early release system is that it is cheaper to maintain offenders in the community than in prison. Countries with limited resources tend to use this system more in order to cut the costs of maintenance in prisons.

**III. ACTUAL SITUATION**

**A. Situation in Participants' Countries**

**1. Bangladesh**

Bangladesh has the following early release measures:

- a) Remission
- b) Pardon or Clemency

*a) Remission*

The aims and objectives of remission are to rehabilitate the prisoner in society, to ease the problems of overcrowding and to reduce the cost of running expenses. It is granted to prisoners of good conduct and those who have showed the willingness to work and to learn a skill in prison. On the other hand, prisoners who donate blood also benefit from the remission exercise. The minimum period of imprisonment required to be served before release is 3/4th of the sentence or 75% of the total term of imprisonment.

*b) Pardon*

Pardon is granted on Independence Day and on Eid festival day by the President of Bangladesh to all convicted prisoners with the exception of violent and dangerous prisoners. They are denied this privilege because they are considered to be a danger to the society, and that there is a high possibility that they will re-offend during the period of early release. No statistics were given about the re-offending rate of the early releases, which made it difficult for us to determine its effectiveness and the recidivism rate.

**2. Botswana**

In Botswana, the early releases available are:

- a) Remission
- b) Parole
- c) Extra mural labour

*a) Remission*

It is granted to prisoners of good conduct for the purpose of integrating and rehabilitating prisoners in the community. On the other hand, it is used as an incentive and reward for good conduct and behavior. There are two types of remission in Botswana:

- i) The officer-in-charge of a prison is empowered to release all prisoners with a sentence of one month and above on remission. One third of their sentence is set aside and normally they will be required to serve two-third or 66% of the total sentence before they can be released. The officer-in-charge may also recommend to the Commissioner the forfeiture of their remission in case of a breach of the disciplinary rules. Prisoners sentenced to life or under the Presidents' Pleasure or death, do not benefit from the remission exercise. About 99% of all the releases are due to the remission exercise, while the remaining 1% is for those released on parole. Apart from good conduct, there are no other requirements to be fulfilled before the release. There is no after care of those released and no conditions are imposed at the time of release.
- ii) Under section 90 (4) of the Prisons Act, the Parole Board may recommend to the Minister of Labour and Home Affairs to grant special remission to prisoners on any of the following reasons:
  - Meritorious conduct and/or achievement;
  - Special circumstances such as mental or physical conditions;
  - To commute a life term prison or for

those serving under the President's pleasure.

This article, although enshrined in the Prisons Act, has never benefited any prisoner. The Parole Board and The Prisons Department have, for unknown reasons, chosen to ignore it.

*b) Parole*

The Prisons Act of Botswana governs all issues pertaining to parole. The parole system provides encouragement to prisoners to make greater effort toward rehabilitating themselves while in prison, as well as in the community. Its purpose is to encourage inmates to display a positive response to rehabilitation programs. On the other hand, it helps inmates to adjust to community life and lead a normal life with both their families and the community before the actual expiration of their sentence.

According to the 1996 statistics, only 1% of the total releases were on parole. The period actually served by parolees before being released was about 80% of the total term of imprisonment. However, it should be mentioned here that prisoners released on parole benefit twice, that is, as a result of the remission and the parole exercise.

Eligibility for Release on Parole:

- i) The prisoner should be serving four years or above, neither the whole nor part of it was imposed for stock theft or being found in possession of precious stones. They must have served half of the term or three years imprisonment, whichever ever is the longer;
- ii) They must be serving more than five years, the part or whole of which was imposed for stock or possession of precious stones. They must have served half of that term or five years imprisonment, whichever ever is the longer; or
- iii) A term of imprisonment for life or confined during the President's

pleasure and has served seven years imprisonment.

The Minister of Labour and Home Affairs is responsible for nominating members of the Parole Board. The Parole Board consists of the following:

- i) A Judge who is the Chairperson,
- ii) A Medical Practitioner,
- iii) A Social Worker,
- iv) Two other persons who are members of the public.

Before deciding to release prisoners on parole, the following aspects are taken into consideration by the Board:

- i) That there is no possibility of re-offending during the period under parole supervision, and they pose no risk to society;
- ii) views of the victim and society;
- iii) previous criminal and disciplinary records;
- iv) Whether s/he has learnt a skill or benefited from any of the treatment programs offered by the prison;
- v) Whether s/he has accommodation, employment and or a support system after release.

Supervision of parolees is done by the social workers of the area where the prisoner will be residing after release. In areas where there are no social workers, the chief, headman, teachers or police normally do the supervision. Parolees are required to comply with conditions which will be stipulated to them during their parole period. In case of breach of conditions, a parolee may be reprimanded or the release license may be revoked. Action taken depends on the gravity of the violation. Upon recall to prison, the period stayed outside prison is not considered as time served.

*c) Extra Mural Labour*

Extra mural labour is the conditional release of an inmate from prison to complete their sentence outside prison

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under the supervision of a public authority. It benefits prisoners sentenced to six months or less; or for non-payment of fine not exceeding P400. Under this order, prisoners of good conduct are required to do public work with no pay for the duration of their remaining part of the sentence. Failure to comply with release conditions may result in the revocation of the release license and the prisoner will be arrested and serve the remaining sentence in prison. The advantage of this scheme is that the offender lives at home and can therefore, continue to fulfil family responsibilities. About 9% of prisoners were released on extra mural labour in 1996. Only 0.05% were recalled back to serve the remaining terms of their imprisonment for failure to comply with the release conditions.

### 3. Fiji

In Fiji, the following early release systems exist:

- a) Remission
- b) Pardon
- c) Extra mural labour
- d) Compulsory Supervision Order

#### *a) Remission*

Remission is granted by the officer-in-charge of a prison to all convicted prisoners with a total sentence of 30 days or more, with the exception of those sentenced to life imprisonment. One third of the sentence is set aside at the beginning of the sentence but prisoners are required to serve a minimum of 2/3rd of the total sentence. No factors are considered in awarding it. Statistical data was not provided.

#### *b) Pardon*

The President of the Republic Fiji has the authority to grant pardon to prisoners serving more than 10 years with a good conduct and industry record.

#### *c) Extra Mural Labour*

Prisoners sentenced to imprisonment

not exceeding 12 months may on commitment or thereafter, apply to the Commissioner of Prisons for their desire to undertake public work outside the prison. Upon release, such prisoners are employed and supervised by a public authority during the period of extra mural labour. Those with previous extra mural labour breaches may not be considered for release. Only 387 prisoners were released in 1996. The re-offending rate during the early release period was not provided.

#### *d) Compulsory Supervision Order*

The Minister of Justice has the authority to release a prisoner on Compulsory Supervision Order at any time, as she may think fit. On the other hand, the Commissioner of Prisons too can release a prisoner, under the Compulsory Supervision Order, who has been sentenced to prison on not less than two previous occasions, and is serving a sentence of 3 years or more. This is after the prisoner has served 2/3rd of the sentence and until released under Compulsory Supervision Order for the period of 12 months.

Prisoners serving life imprisonment can take advantage of early release/ Compulsory Supervision Orders after serving more than 10 years in prison, with favourable reports. 12 such prisoners were released in 1996.

Prisoners are allowed to apply for release under Compulsory Supervision Order and the officer-in-charge of a prison will forward such an application to the Commissioner, together with other relevant reports. It is then sent to the Minister of Justice and Minister of Home Affairs for final decision.

Remission is the only release measure granted without imposing any conditions. Statistics on early releases, as compared with the total number of releases, was not given, not was data on the re-offending rate of early releases as compared with releases at expiry of sentence.

#### 4. Ghana

Ghana has the following early release measures:

- a) Remission
- b) Pardon/Amnesty

##### *a) Remission*

Section 34 of the Prisons Service Decree(NRCD 46)1972 of Ghana authorizes the officer-in-charge of the various prisons to release prisoners who meet the requirements for release on remission. It is granted on the basis of good conduct and study and is used to solve the problem of overcrowding. Prisoners serving determinate terms of imprisonment are required to serve a minimum of two third of their sentence.

##### *b) Pardon/Amnesty*

Amnesty is granted to all prisoners. Life sentenced and condemned prisoners are required to serve 15 and 25 years respectively before release under amnesty. In granting amnesty, the conduct of the prisoner is taken into consideration. No statistics were provided for the number released and the re-offending rate during the period of early release.

#### 5. Hong Kong

Hong Kong has the following early release measures:

- a) Remission
- b) Release Under supervision

##### *a) Remission*

The officer-in-charge awards it as an incentive for good behavior. The minimum period required to be served before early release is 2/3rd of the sentence.

In the event of a breach of disciplinary offences, as enumerated in the Prison Rules and punished with forfeiture, the prisoner may lose part or the whole of the remission. One third of the prisoners got remission. No figures on prisoners released on remission, or those who re-offended during

early release, were provided.

The pre-release employment scheme is available to all prisoners ( who are not serving life terms or facing deportation) who have served terms of ten years or more and are within six months of completing their sentences, after deduction of remission.

##### *b) Release Under Supervision*

The factors which are considered before granting Release Under Supervision are:

- repentance on committing the crime
- less possibility of re-offending and risk to society
- type or gravity of the offence
- good conduct and achievement
- whether the prisoner would be able to fend for themself
- whether s/he has anyone to support them.

All prisoners, other than life term prisoners, may apply for Release under Supervision after serving 20 months or half of a 3 year sentence or more. Following approval by the Release Under Supervision Board, successful applicants will be discharged within the last six months of their sentences and required to go out to work and reside in a designated hostel under the supervision of the Aftercare Officers for the balance of the sentence. In practice, prisoners are released after serving 20 months or half of the sentence. The percentage of those released under this scheme, as compared with total number of releases, is 0.26%.

Prisoners released on early release system are required to comply with the conditions imposed upon them. No statistics were produced for the re-offending rate of those released on early release, versus those released at the expiry of their sentence in prison.

#### 6. Indonesia

The following early release measures are

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available in Indonesia:

- a) Remission
- b) Parole
- c) Pardon

a) *Remission*

The following aspects are taken into consideration by authorities before granting remission:

- i) good conduct and achievements;
- ii) whether the prisoner has a place of abode after release;
- iii) whether the prisoner has a job or supportive system.

Remission is granted to prisoners on the basis of work in prison, good conduct, educational achievement, learning a skill, as well as helping prison management in detection of riots or a breach of prison discipline. Participation in religious practices and the donation of blood are also recognized. Statistics for the minimum period required to serve before being released on remission, for those who benefitted under this scheme, were not available.

d) *Parole*

The following aspects are taken into consideration by authorities before granting parole:

- i) good conduct and achievements;
- ii) whether the prisoner has a place of abode after release;
- iii) whether the prisoner has a job or supportive system

The President of Indonesia has the power to release any prisoner who applies for release on parole. However, he does so on the advice of the Minister of Justice and the Cabinet Secretary, after reviewing the prisoner's application and recommendation from the prison. For a prisoner to be eligible for release on parole, s/he must have served 2/3rd of the sentence.

e) *Pardon*

Pardon is given to prisoners by the

President of Indonesia on humanitarian grounds, good conduct and old age. All the early release measures are conditional releases, which may be revoked in the event of a breach. The statistical data about percentage of early release in the total number of prisoners, average length of sentence that prisoners actually served before release and re-offending rate of prisoners released earlier than the expiry date, were not available.

7. Japan

In Japan, the following early release measures are available:

- a) Parole
- b) Amnesty

a) *Parole*

The aims and objectives of Parole are to release at an optimal time, an inmate who is capable of leading a law-abiding life in the community, if adequate supervision and assistance is provided. In order to be eligible for release on parole the prisoner must satisfy the following requirements:

- i) s/he should have served one-third of the sentence for a determinate sentence, or 10 years for a life sentence.
- ii) s/he evidences the state of reformation.

The average percentage of original sentence actually served by prisoners before being paroled is from 80 to 90%.

Warden of the Prisons can apply for parole on behalf of the prisoners. The body responsible for granting parole is the Regional Parole Board, which consists of 3 Board members who usually have the experience of working as Chief of Probation Office.

The adjustment and improvement of the living environment to which a prisoner will return after release is conducted by the probation office that has jurisdiction over the prospective place of residence. Usually the Professional Probation Officer entrusts

the duty of inquiry and adjustment to a Volunteer Probation Officer (VPO) living near the inmate's family. The VPO must visit the prospective home to determine the feasibility of an inmate's return there, and tries to eliminate any negative factors in cooperation with the inmate's family members. Regarding the information obtained by the VPO, the probation office provides a report of the home conditions to the prison and the Regional Parole Board.

The following aspects are taken into consideration by the authorities before granting parole to a prisoner:

- i) repentance on committing crime
- ii) reduced possibility of re-offending
- iii) good conduct and achievements
- iv) whether the prisoner has residential accommodation after release
- v) whether the prisoner has a job or support system
- vi) reaction of the society on his/her release
- vii) willingness to progress

The prisoners who are released on parole are subjected to some conditions which the prisoners are required to comply with.

*b) Amnesty*

There are two kinds of amnesty in Japan, namely, General and Individual. General amnesty is promulgated in the form of a Cabinet Ordinance in commemoration of special occasions of national significance. Individual Amnesty has far greater significance in rehabilitation, as it is granted in accordance with individual's merits on the recommendations of the National Offenders Rehabilitation Commission. The individual Amnesty, which is conferred by the Cabinet, is attested by the Emperor. The Amnesty granted to the prisoners is without conditions.

*c) Statistical Data*

The percentage of parolees as compared with total number of releases was 57.6%

in the year 1996. The re-incarceration rate of prisoners released before the expiry of their sentence is 25.8% (within 3 years after release). The re-incarceration rate of prisoners who are released at the expiry of their sentence is 46.1% (within 3 years after release).

Positive aspects of early release are:

- i) The parole system has good effect on prisoners' reintegration into society through the supervision after release.
- ii) Re-incarceration rate of the parolees is lower than that of those who are released on the expiry of sentences.
- iii) Many prisoners try to keep good conduct in the prison to be granted parole.
- iv) The environmental adjustment is conducted effectively before their release.

8. Kenya

In Kenya, the following early release measures are available:

- a) Remission
- b) Parole
- c) Pardon/Clemency

*a) Remission*

Remission is granted on the basis of work and good conduct, and to solve the problem of congestion in prison. The minimum period of imprisonment required to be served before release is two-thirds of the sentence. Statistics about the number of prisoners released on remission was not available.

*b) Parole*

To be eligible for release on parole, the prisoner must be sentenced to four years and above. The average percentage of original sentence actually served by prisoners before release on parole is about 90%. The prisoner himself or the Commissioner of Prisons can apply for or on behalf of a parole. The Review Board is responsible for granting parole and it is

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composed of the Commissioner of Prisons and Director of Probation and After Care.

In granting early release, the following aspects are taken into consideration:

- i) Victims feelings;
- ii) Repentance and acceptance of blameworthiness for the crime;
- iii) Less possibility of re-offending;
- iv) Type and gravity of the offence;
- v) Good conduct;
- vi) Whether the prisoner has accommodation after release;
- vii) Whether the prisoner has a job or support system after release.

*c) Pardon or Clemency*

Pardon is granted by the President of the Republic of Kenya on the basis of ill health, age, and to petty offenders sentenced to 6 months or less. The early release awarded under parole and pardon are with conditions while remission does not have any conditions. Statistical data was not available. The positive aspect of early release is to encourage harmony and the respect for security and management.

9. Kiribati

In Kiribati, the following early release system are available:

- a) Remission
- b) Parole
- c) Pardon

*a) Remission*

As a means of encouraging good conduct, all convicted prisoners sentenced to one month and over are eligible for release after serving 2/3rd of their term of imprisonment. The percentage of prisoners who get remission as compared with total number of releases is 90%.

*b) Parole*

The factors which are considered before granting parole are:

- i) victims feeling;
- ii) type or gravity of the offence;

- iii) good conduct and achievement;
- iv) reaction of the society on his/her release.

Prisoners sentenced to 6 months and above are eligible for release on parole. The Parole Board has the power to release on parole and revoke parole licenses. It is composed of 5 members: Secretary of Cabinet who is the Chairman, a Religious Member, Medical officer and Social worker. The authority to apply for parole is the warden. The percentage of parolees as compared with total number of releases is 90%.

*c) Pardon*

The factors which are considered before granting pardon are:

- i) victims feelings;
- ii) repentance on committing the crime;
- iii) less possibility of re-offending and risk to the society;
- iv) type or gravity of the offence;
- v) good conduct and achievement;
- vi) reaction of the society on his/her release.

It is awarded in commemoration of special occasions of national importance and significance. The President has the power to release inmates, particularly the long sentenced prisoners, on the advice of Cabinet. The percentage of those released on pardon as compared with total number of releases is not available.

All early release measures are awarded with conditions and the prisoner is expected to comply with these conditions; failure to do so may result in the revocation of the release license. The statistical data about average percentage of sentence that is actually served before release, and the re-offending rate of prisoners released earlier than the expiry date, was not available.

10. Malaysia

In Malaysia, remission is the only early

release measure available. Remission is granted to all prisoners with the exception of life termers and those sentenced to death. One third of the sentence of prisoners is set aside on the basis of good conduct. Officers-in-charge of the prison are the competent authority who can award remission. Police supervision in certain circumstances may be imposed by the courts for a specific period of time, in accordance with the law. Remission is used as an incentive to reward good conduct in prison, as well as to induce compliance to law and order.

The statistical data about the percentage of prisoners who get remission, the average percentage of sentence actually served before release and the re-offending rate of prisoners released on early release, was not available.

#### 11. Nepal

In Nepal, the following early release measures are available:

- a) Remission
- b) Pardon

##### *a) Remission*

Remission is granted on the basis of work, good conduct, learning some kind of skill, helping prison administration on various accounts and involvement as a teacher for other prisoners. The minimum period of imprisonment required to be served before release is 50% of the sentence. It is awarded by His Majesty the King during the Constitution day, His Majesty the King's birthday and Democracy day. The average percentage of prisoners released on remission was 8.73% during the period from 1995-97.

##### *b) Pardon*

Pardon is granted on the basis of prisoners' good conduct and behavior. The authority to award pardon is His Majesty the King. The following aspects are taken into consideration by the authorities before

granting remission or parole to a prisoner:

- i) less possibility of re-offending;
- ii) types or gravity of the offence;
- iii) good conduct and/or achievement.

Pardon is awarded with conditions while remission is awarded without them. Statistical data concerning the figures for re-offending rates by both prisoners released before expiry of sentence and at expiry of sentence were not available.

#### 12. Pakistan

In Pakistan, the following early release measures are available:

- a) Remission
- b) Parole
- c) Pardon or Clemency

##### *a) Remission*

It is granted on the basis of: work, good conduct, qualifying some educational examination, learning some kind of skill, helping prison administration on various accounts, performing religious practices, blood donation, surgical sterilization, teaching other prisoners to read and write, teaching handicrafts, and special assistance in detecting or preventing breaches of prison discipline or regulations. The total remission period on various accounts, excluding on passing an examination, blood donation and surgical sterilization, shall not exceed 1/3rd of an inmates' sentence.

##### *b) Parole*

In order to be eligible for release on parole, the prisoner must have good conduct and be recommended by the prison authorities. The average percentage of the original sentence actually served by prisoners before being paroled was not available, but is estimated to be not less than 50%.

Prisoners can apply for parole either directly or through a lawyer. The body responsible for granting parole is the Provincial Government, while the Home

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Secretary of the Ministry of Home Affairs decides the cases on behalf of the Provincial Government. The following aspects are taken into consideration by the authorities before granting parole to a prisoner:

- i) less possibility of re-offending;
- ii) types or gravity of the offence;
- iii) good conduct.

*c) Pardon*

Pardon is granted usually on special occasions. The authority to award pardon is with the Head of State, i. e. the President of Pakistan.

The early release awarded with conditions is parole, while remission and pardon/clemency are unconditional releases. The exact figure concerning percentage of early releases, as compared with total number of releases, was not available. The exact re-offending rate of prisoners released before the expiry of the sentence was not available. However, generally their re-offending rate is not high. The exact re-offending rate of prisoners released at expiry of the sentence was not available. It was approximately from 20 to 30%. The positive aspects of early release are to provide an incentive to prisoners for acquiring education, skill and improving good conduct and behavior in prison, which are important factors in their rehabilitation in the society.

13. Papua New Guinea

In Papua New Guinea, the following early release measures are available:

- a) Remission
- b) Parole
- c) Pardon
- d) Extra mural labour or employment

In Papua New Guinea, early release measures are seen as alleviating the problem of prison overcrowding and as an incentive for prisoners to be of good conduct.

*a) Remission*

Remission is granted to prisoners as an incentive for good behavior in prison, and to solve the problem of prison overcrowding. All prisoners are automatically granted 1/3rd of their sentence as remission, except for those who were sentenced for escaping from lawful custody. Two thirds of the sentence must be served before one can be released. In the event of a breach of prison discipline by a prisoner, if charged and convicted before a visiting magistrate, s/he loses 10 days remission for any offence committed within a month.

*b) Parole*

In awarding parole, the following aspects are taken into consideration:

- i) victims feelings;
- ii) repentance by prisoner for committing the crime;
- iii) compensation to the victims;
- iv) less possibility of re-offending and risk to the society;
- v) type and gravity of the offence;
- vi) good conduct and achievement;
- vii) whether the prisoner has a job or support system;
- viii) reaction of society on his/her release.

All prisoners are eligible for release on parole after having served 2/3rd of their prison term. The Officer-in-Charge of a prison compiles and submits a dossier of an inmate to the Commissioner who then transmits it to the Parole Board with recommendations. The Parole Board is composed of three members: a lawyer nominated by the Chairman of Papua New Guinea Law Society, two other members nominated by the Commissioner of Correctional Services and Chief Parole Officer or Secretary for Justice. The nomination has to be endorsed by the Minister of Justice. The lawyer is the Chairman. The average time normally served by prisoners is 66.6% of total sentence.

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### *c) Pardon*

In awarding pardon, the following aspects are taken into consideration:

- i) victims feelings;
- ii) repentance by prisoner for committing the crime;
- iii) compensation to the victims;
- iv) less possibility of re-offending and risk to the society;
- v) type and gravity of the offence;
- vi) good conduct and achievement;
- vii) whether the prisoner has a job or support system;
- viii) reaction of society on his/her release.

Pardon is granted on special occasion and under special circumstances, for example, Independence celebrations, special medical grounds, and in the event of natural disasters such as flooding or volcanic eruptions resulting in the prisons being affected. The Governor General, acting on the advice of the National Executive Council, has the authority to award pardon. Statistics on release by pardon were not available.

### 14. Philippines

In Philippines, the following early release measures are available:

- a) Parole
- b) Pardon or Clemency

#### *a) Parole*

Parole is available only to prisoners who have been convicted of final judgement, sentenced to an indeterminate prison sentence of more than one year and have served the minimum period of their indeterminate sentence, and if the Board finds that there is reasonable probability that if released, the prisoner will be law abiding and that such release will be compatible with the interests and welfare of society.

The following can apply for parole on behalf of a prisoner:

- i) prisoner himself/herself.
- ii) warden or officer-in-charge of a

prison.

The body responsible for granting parole is Board of Pardons and Parole. It is composed of the following:

- i) Chairman-Secretary of Justice.
- ii) Acting Chairman-Under Secretary of Justice.
- iii) Secretary-Executive Director of Board of Pardons and Parole.
- iv) Members-Parole and Probation Administrator, Sociologist, Educator, Lawyer, Priest and Correction Expert.

Statistics were not available on parole rates.

#### *b) Pardon*

Pardon is granted under the following circumstances:

- i) For commutation of sentence-the prisoner must have served at least one-third of the minimum of the indeterminate sentence.
- ii) For conditional pardon-the prisoner must have served at least one-half of the indeterminate sentence.
- iii) For absolute pardon-10 years must have elapsed from the date of release of the petitioner from confinement, or five years from the date of the maximum sentence.

The authority to award pardon is with the President, through recommendation of the Board of Pardons and Parole, and with the assistance of the Director of Corrections. The following aspects are taken into consideration by the authorities before granting Pardon:

- i) subject will be legitimately employed at release;
- ii) subject has a place where s/he can establish residence;
- iii) availability of after-care services for a prisoner who is old, seriously ill, or suffering from a physical disability.

All the early release measures are awarded with conditions. Statistics were not available.

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Positive aspects of early release are:

- i) To uplift and redeem valuable human material to economic usefulness;
- ii) To prevent unnecessary and excessive deprivation of personal liberty by way of parole or the exercise of executive clemency;
- iii) To solve the problems of person congestion.

Early release reduces or cuts the expenses of the government incurred in prisons.

#### 15. Republic of Korea

In Korea, the following early release measures are available:

- a) Remission
- b) Parole
- c) Pardon or Clemency

##### *a) Remission*

Remission in Korea is granted on the basis of work, good conduct, and having passed an educational examination or for learning a skill. The minimum period required to be served is one third of the sentence.

##### *b) Parole*

All prisoners are eligible for release on parole. Prisoners must serve one third of the original sentence before they can be paroled. A warden may apply for a parole on behalf of the prisoner, while the Parole Board is responsible for granting parole. Members of the Parole Board are the Vice-Ministers of Justice and 9 others.

##### *c) Pardon/Clemency*

The Minister of Justice grants pardon on the basis of good behavior. In granting Parole, the following aspects are taken into consideration:

- i) Repentance and acceptance of blameworthiness for the crime;
- ii) Less possibility of re-offending;
- iii) Good conduct.

Statistics show that the re-offending rate

at expiry of sentence is 58%.

#### 16. Solomon Islands

In Solomon Islands, the following early release measures are available:

- a) Remission
- b) Parole
- c) Pardon or Clemency

##### *a) Remission*

Remission is granted almost automatically to all prisoners who keep good conduct and industry. The minimum period of imprisonment required to be served before release is 30 days. The average percentage of original sentence actually served by prisoners before being released on remission is 1/3rd. The officer in charge of prison is the competent authority to award it. Statistics were not available.

##### *b) Parole*

In order to be eligible for release on parole, the prisoner must satisfy the following requirements:

- i) A prisoner having good conduct and industry and has been sentenced to 6 months or more. They must, thereafter serve 6 months, in intervals of not less than 6 months, after the first consideration and denial of parole.
- ii) The life sentence prisoner must have served 5 years, and in the case of denial, their case can be reviewed after every 3 years.

The percentage of parolees, as compared with total number of releases, is about 1% to 2%. The average percentage of original sentence actually served by prisoners before being paroled is about 80 or 90%. The following can apply for parole on behalf of a prisoner:

- i) prisoner himself/herself;
- ii) warden or officer-in-charge of a prison;
- iii) others/relatives, doctor, any family members).

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The body responsible for granting parole is Ministry of Police & National Security. The Minister makes the decisions on the advice of the Trial Judge or the Chief Justice.

### *c) Pardon*

Pardon is granted on merit, good conduct and industry, provided the prisoner serves 5 years of their sentence. The authority to award pardon is the Governor General, on the recommendation of the Committee of Prerogative of Mercy. The following aspects are taken into consideration by the authorities before granting pardon to a prisoner:

- i) victims feelings;
- ii) repentance on committing crime;
- iii) compensation to the victims;
- iv) type or gravity of the offence;
- v) good conduct and/or achievement.

The early release awarded with conditions is Parole and Pardon on Condition, while Remission and Free Pardon are unconditional releases. The re-offending rate of prisoners released before the expiry of the sentence is 1%, while the re-offending rate of prisoners released at the expiry of the sentence is 10%.

## 17. Thailand

In Thailand, the following early release measures are available:

- a) Remission
- b) Parole
- c) Pardon
- d) Penal Settlement

### *a) Remission*

Remission is granted on the basis of: work, good conduct, qualifying some educational examination, learning some kind of skill, helping prison administration on various accounts, performing religious practices, etc. His Majesty the King grants remission on special occasions, e. g., Royal birthday celebrations. The minimum period of imprisonment required to be

served before release is 6 months. In 1997, 16.5% of prisoners were released on remission.

### *b) Parole*

In order to be eligible for release on parole, the prisoner must satisfy the following requirements:

- i) Convicts must show good conduct and progress in education.
- ii) Serve 2/3rd of the sentence or 10 years in case of life imprisonment.

The following aspects are taken into consideration by the authorities before granting remission or parole to a prisoner:

- i) less possibility of re-offending;
- ii) good conduct and/or achievement;
- iii) whether the prisoner has residential accommodation after release;
- iv) whether the prisoner has a job or support system.

The average percentage of original sentence actually served by prisoners before being paroled was not specified.

The Warden or Officer-in-Charge of a prison can apply for parole on behalf of a prisoner. Director-General grants the parole under the suggestion of Departmental Parole Board. This Board is composed of 7 officials: Deputy Director-General and other relevant officials, Director of Probation Bureau, Director of Parole Division and representatives from Department of Public Health, Police, and Prosecution. The percentage of parolees in total releases is 0.9%.

### *c) Pardon*

Pardon is granted on important events, such as the King's Birthday Anniversary, Royal Marriage etc. The authority to award pardon is with the King. In 1996, 22.5% of releases were on pardon.

### *d) Penal Settlement*

Prisoners are selected to practice farming and agricultural schemes. They are given land for living with their families

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and allowed to live there as long as they want. However, they can not sell the land. To qualify for a penal settlement, the prisoner must satisfy the following conditions:

- i) Good behavior;
- ii) Diligence;
- iii) Showing good result in education and work;
- iv) Serve 1/4th of the sentence;
- v) The remaining term not less than 2 years or 7 years in case of life sentence. The early release awarded with conditions are remission and parole, while pardon is an unconditional release. Percentage of early releases as compared with total number of releases is 40%.

The re-offending rate of prisoners released before expiry of the sentence was not available. The percentage of recidivist in newly admitted prisoners is 14%. Positive aspects of early release are:

- i) To save the budget costs of running and maintaining prisons.
- ii) To reduce overcrowding in prisons.

## **B. Summary**

After having discussed, the actual situation of the 17 countries represented in the 109th International Training Course at UNAFEI, it was discovered that there were some similarities and differences in these countries, which are summarized below:

### *a) Remission*

Remission is practiced in all the Participant's Countries except Fiji, Philippines and Japan. The period remitted also varies from one country to the other, ranging from one-fourth as in the case of Bangladesh, one-third as in Botswana, Ghana, Kenya, Kiribati, Malaysia, Papua New Guinea, Pakistan and Korea, to half of the sentence as in Nepal. In all these countries, it is awarded as an incentive for good conduct and behavior.

In the case of remission, prisoners are assured their earliest date of release, contrary to parole. There is no investigation about the prisoner's background, living conditions, victims feelings or the need for adjusting the environment prior to release, again, as opposed to parole. In some countries, remission is used to solve the problem of prison overcrowding, however in such situations, the factors regarding the re-integration and rehabilitation of prisoners and public safety are ignored. There is no supervision in the case of prisoners released under remission.

### *b) Parole*

In countries such as Botswana, Fiji, Indonesia, Japan, Kenya, Kiribati, Korea, Pakistan, Papua New Guinea, Philippines, Solomon Island and Thailand, parole is highly structured. However in the case of Hong Kong, the terminology used for parole is 'Release Under Supervision' and in Fiji it is known as a 'Compulsory Supervision Order'.

There are bodies responsible for deciding the release or revocation of parole licenses, as well as for supervising parolees. There are a number of factors taken into consideration before release on parole e.g. conduct and achievement in prison, victims feelings, whether the prisoner will have accommodation and a support system after release and most importantly, the risk of re-offending and the safety and security of the community.

In terms of facilitating prisoner's re-integration and rehabilitation in the community, parole is considered a good system because it takes into consideration all important factors for the rehabilitation of the prisoner and also the safety of the society. A prisoner released under parole remain under supervision till the expiry of their sentence.

However, in most of the participant's countries, parole is not being properly used because of the process involved before

deciding release. Most countries can not afford it because it involves a lot of investigation, and needs more manpower both inside the prison and in the community.

*c) Environmental Adjustment*

Adjustment of the environment to which the prisoner will enter after release is very important if they are to be fully reintegrated and rehabilitated in to society. In order to make the right decision about an early release, whether under the remission or parole system, the decision making bodies have to know about where the prisoner will go after release and whether they will pose a danger to society. Therefore, the environment to which they will return is required to be adjusted before their release. The use of community resources e.g. Voluntary Probation Officers as in the case of Japan, Philippines and Thailand, seems to be important, as they are from the community and can be helpful in the rehabilitation process. The use of community members in the after care of released prisoners is seen as the right direction because they act as a cushion between the prisons, the prisoners and the community.

*d) Pardon*

Pardon is granted automatically to prisoners by the Heads of State in commemoration of national days and events, and on humanitarian grounds such as pardon for sick and aged prisoners. However no consideration is taken into account for the safety of the community, prisoner conduct or achievement. It is a privilege accorded to prisoners by political figures or monarchs which has nothing to do with the reintegration and rehabilitation of prisoners. Generally there is no supervision after release. However, in case of the Solomon Islands and Philippines, pardon is with conditions.

*e) Statistical Data*

No concrete data was available for almost all of the participants' countries, except Japan, regarding prisoners release on remission, parole and other early release measures. The re-offending rate during the period of early release to the expiry of sentence was also not available. The non-availability of the statistics makes the task of the authorities difficult when deciding cases of early release. It is important that prisoners are supervised as per the conditions of their release until the expiry of their sentence.

*f) Decision Making Bodies*

It was observed that all the early release measures have a body or bodies responsible for administration. In the case of remission, it was found that either Officers-in-Charge of prisoners or the Head of State or Province is responsible for awarding it.

On the other hand, parole issues are either handled by Parole Boards as in Botswana, Japan, Papua New Guinea; a Review Board in Indonesia, a Board of Pardon and Parole in the Philippines. These boards are composed of three to seven members depending on the country, and are drawn from the Probation Office, social workers, law and courts, police, medical fields and members of the public. It was also observed that some of these boards members are political appointments, while others are independent of political influence and/or the prisons or correctional bureaus.

#### **IV. PROBLEMS IN THE EARLY RELEASE SYSTEM**

##### **A. Problems in Participants' Countries**

###### **1. Bangladesh**

In Bangladesh, the early release measure that exists is Remission. The remission period is 1/4th of the sentence, however, this period is not considered

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sufficient for the purpose of motivating prisoners to improve their behavior and conduct which may be helpful in their rehabilitation in to society. In 1980, a commission was formed by the government to look into the problems existing in the prison system and concerned officials submitted their recommendations, including the enhancement of the remission period from 1/4th to 1/3th of sentence. This issue has not yet been given priority for consideration and still pending with the government.

2. Botswana

In Botswana, the following two problems are noted in regard to parole:

- i) Inadequate Trained Staff for Supervision: There is a problem in supervision and follow up of releases. This deprives the Board of knowing whether the releases re-offend or not during the period, and whether they practice what has been taught to them before their release.
- ii) Lengthy Procedure: The procedure involved is lengthy and it usually takes 6 months to decide a case.

3. Fiji

There is no formal after care system in Fiji. Prisoners are released based on two early release measures: the Extra Mural Punishment (EMP) and the Compulsory Supervision Order. Under the Compulsory Supervision Order, there is no supervision and the releasee is required only to report to the police station nearest to their place of residence on the first week of every month until their term expires. Because of this procedure of supervision, it has been noted that those who are released do not comply with the conditions imposed, and the supervising police officer just reports this and the releasees are re-arrested and sent back to prison. The purpose of rehabilitation is not achieved.

4. Ghana

Just like Fiji, the supervision of the releasees rest with the police, and the releasees are required to report to the nearest police station at a specified time. As there is no formal aftercare system on 'Release Under License' the rehabilitation and re-integration into society is not taken into consideration.

Another problem is public perception. Public perception is positive only for minor offenders and in the case of child molesters, sexual offenders and murderers, perception is negative. The public wants these dangerous offenders kept in jail and executed.

5. Hong Kong

In Hong Kong, there appears to be no problems in the early release measures because there is a good system of monitoring the after-release program of the releasees. The success rate under the 'Release Under Supervision' is 100% and since its introduction in 1987, there were only 25 inmates who have availed the said privilege (to 1996).

6. Indonesia

Public perception regarding the early release of prisoners, especially the dangerous ones, is negative because the public believe that prisoners should be kept behind bars so that they may not pose a danger/threat to the society.

Another problem is the limited number of trained staff, which affects the supervision of the releasees and because of this, the response to the need of the parolees.

7. Japan

- i) Ineffective Supervision for Short-term Parolees: In Japan, the problem in the parole system is that the term of supervision is considered too short (in the case of a short original sentence) for the prisoner's rehabilitation and re-

integration into society. The statistics for the year 1996 show that 3.3% of parolees were supervised for only less than one month, and 45% supervised for a period of less than 3 months. When the period of parole supervision is only a month, parolees receive guidance only twice from the Volunteer Probation Officer in charge. This would not allow enough opportunity for the Volunteer Probation Officers to extend sufficient support to effectively rehabilitate the releasee. No special programmes or measures are available to deal with such short-term parolees, however some intensive supervision methods yielding positive results need to be devised.

- ii) **Problems concerning Administration of Parole of Arsonists and Sex Offenders:** The perception of Japanese Rehabilitation Aid Hostel officials is harsh towards arsonists and sex offenders, which usually results in the rejection of those types of offenders as residents. This rejection is often the reason for denial of parole to those prisoners. Since arsonists and sex offenders in general pose a threat to the society, it is inevitable that they are perceived negatively. However individual examination of such offenders reveals that not all of them demonstrate a high risk of recidivism. For instance, if the motive of the commission of arson is one's own grudge, then by improving the relationship between parties may reduce the chance of recidivism. Similarly, in the case of an individual involved in a gang rape case only due to one's inclination to go along with the rest of the peer group, with no sexual problems of one's own, the possibility of recidivism of the said individual is not always high; provided that the undesirable association with the peer

group is discontinued, leading the offender to lead a more independent life of their own. Therefore, the psychological aspect of the commission of the crime should also be taken into consideration, and the rehabilitation services may consider the case on an individual merit basis.

#### 8. Kenya

There are several areas for reform in Kenya. Firstly, public perception regarding the early release of prisoners is negative, because not all who were released have shown reformation and sometimes cause trouble in the community.

Secondly, The procedure involved in reviewing the cases of long-term prisoners is lengthy: reviewed every ten years. Thus only a limited number of cases are accepted in each year.

Thirdly, prisoners are not screened properly for early release, because in most cases, the release scheme is done to solve the problem of prison overcrowding.

Finally, because of a limited number of trained staff, only few releasees are given supervision and aftercare.

#### 9. Kiribati

In Kiribati, the total prison population during the year 1997 was 82. The prisoners who are released on parole are supervised by the police. In fact, this is not a proper system of supervision, because the parolees are only required to report to the police after specific periods of time. Therefore, the parole system is confronted with the problem of introducing proper supervising measures.

#### 10. Malaysia

The only system that exists is remission and it is not confronted with any problems.

#### 11. Nepal

- i) **Lack of Equal Opportunity:** In Nepal, all prisoners are entitled to fifty percent

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(50%) remission on the condition that they must have good conduct while serving their sentence in prison. Remission is granted on three National Festivals namely; Constitution day, His Majesty's The King Birthday and Democracy day. These three National Festivals occur in the months of November, December and February. With this procedure, some prisoners who are supposed to be released on remission after completion of their 50% imprisonment term will not be released, for example, if a prisoner gets a sentence of 6 months in the month of January, he will serve the total imprisonment and will not be able to avail remission. However, if a prisoner who gets 6 months imprisonment in the month of September gets remission, they will be released in the month of December, i.e., on the His Majesty the King's birthday. This procedure is not providing equal opportunity to all prisoners, who are eligible for leveling remission.

- ii) Lack of Proper Screening of Inmates: All types of prisoners are being released on remission without taking into consideration the types or gravity of their offence. Since there is no proper screening of the inmates, dangerous offenders are also getting the benefit of early release and thus pose a threat or danger to the society.

#### 12. Pakistan

Public perception about dangerous offenders and their early release of is negative. The public do not want to see prisoners, especially hardened criminals, move freely in the society and pose a danger or threat to them. Because of this, the laws regarding early release on parole and probation are not fully utilized. The competent authorities hesitate to decide on early release cases because of this negative

perception.

Another problem is the procedure of early release is lengthy because many offices/department are involved in the decision making process. Because of this, the inmates cannot fully take advantage of this system. As with the others, there is also a problem in supervision of the releasees because of the limited number of trained staff in Pakistan.

#### 13. Papua New Guinea

The procedure of processing early release on parole is very slow because there is only one Parole Board throughout the country. It takes almost a year before a case is decided by the authorities. Similarly, the supervision of the releasees is affected because of the limited number of trained staff.

#### 14. Philippines

In the Philippines, the early release of prisoners is confronted with the following problems;

- i) Youth offenders are welcomed easily, while adult offenders are less accepted by communities because they are perceived to have full discernment of their offences and wrongdoing.
- ii) Weak linkages between and among members of corrections because of the fragmented correctional system.
- iii) Inadequate database and statistics on prisoner's recidivism.
- iv) Inadequate budget for the aftercare program of released prisoners.

#### 15. Republic of Korea

There appears to be no problems in the early release system.

#### 16. Solomon Islands

In Solomon Islands, public perception regarding the early release of prisoners is negative because the victim's feelings are given importance. There is also a problem

in the supervision of releases because of the limited number of trained staff. Some prisoners do not receive aftercare and supervision, and therefore their chances of re-offending increases.

#### 17. Thailand

The problems in the early release of prisoners are as follows:

- i) There is negative perception about the early release of prisoners because they believe that the punishment imposed on the offenders is lenient and that a prisoners are released too early.
- ii) There is a problem in supervision because of the limited number of trained staff.

#### **B. Summary**

While discussing the problems existing in the various types of early release systems in the participants' countries, it has been observed that the most common early release measure available is remission. Generally, remission is granted to prisoners subject to their good conduct and behavior in the prison, but in a few countries, such as the Solomon Islands and Papua New Guinea, it is awarded automatically without fully taking into consideration the factors of conduct or behavior, or gravity of the offence.

The other commonly used early release measure is parole. However, it is observed that while granting parole, the chance of re-offending the prisoners is basically taken into consideration, but factors such as their living conditions, employment opportunities and family support etc. are less considered. In fact, in most of the participants' countries, proper supervision of or aftercare services for, the parolees was not available. In the absence of such services, the chance of re-offending increases. However, statistics regarding the re-offending rate during the period of supervision were not available in almost

all of the participants' countries, except Japan and Hong Kong. On the basis of the above discussion, problems existing in the various early release systems in participant's countries are as follows:

#### 1. Improper Selection of Prisoners for Early Release

It has been noted that in most of the participant's countries there are problems in the selection of candidates for their early release. Important factors which are to be considered from the point of view of the rehabilitation of the prisoners, are often ignored. In some of the participating countries such as Kiribati, Malaysia and Papua New Guinea, the award of remission is automatic. In such situations, the chance of release of high-risk prisoners increases and the question of the safety of society arises.

#### 2. Absence of Adjustment and/or Improvement of Living Environment

In all the participating countries except Japan, Philippines and Thailand, the factors of adjustment and/or improvement of the living environment to which the prisoners will return after their release from prison are not considered before granting remission or parole. In the absence of such adjustment, the chance of re-offending increases and the rehabilitation of prisoners become difficult.

#### 3. Improper Composition of Decision Making Bodies

It was also noticed that in most of the participating countries, the composition of the decision making body is not organized in view of the prisoners rehabilitation. In some cases, it is the minister in charge of the prison, a politician, who is the competent authority to decide the cases of early release. In some other cases it is a board composing of two, three or more members nominated by the Minister or the Government. In such situations, the

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question arises about the independence and competency of the decision making body. If the decision making body is not independent, nor professionally competent, it may draw the wrong conclusions about the merit of the case; which may effect the rehabilitation processes as well as the safety of the society. It was also reported that in some of the participants' countries, there are complaints about the misuse of power by the competent authorities, such as asking for bribes for making a favorable decision, etc.

#### 4. Lengthy Procedure

It has been observed that in many countries such as Botswana, Fiji, Nepal, Pakistan, Papua New Guinea, Solomon Islands and Thailand, that there are lengthy procedures involved in deciding the case of early release. This situation not only delays the rehabilitation process, but may also contribute to the overcrowding problem.

#### 5. Lack of Supervision and Aftercare

It has been noted that almost all of the participating countries are confronted with the problem of the inadequacy of trained staff. Because of this, the prisoners released under parole, or other early release systems under supervision, can not be properly supervised which ultimately increases the risk of re-offending.

#### 6. Public Perception

In some countries, public perception about the early release of prisoners is negative. The public wants to see the offenders, especially those who commit serious crimes, behind bars. In such situations, the competent authorities show their reluctance in issuing orders for early release.

### V. COUNTERMEASURES

A thorough examination of the actual

situation and problems existing in the early release systems in the participants countries revealed that the following important factors are not taken into consideration when awarding early release to prisoners.

#### A. Selection of Prisoners for Early Release

In many countries, it has been noted that criteria for selecting the candidates for early release under remission and parole is not appropriate. In some countries, remission is automatic, but in other countries the only criteria is good conduct and behavior in the prison, without taking into consideration the risk of recidivism. While in case of parole, apart from good conduct and behavior, the risk of re-offending is given importance, but other important factors are ignored. It is therefore suggested that the competent authorities, before granting remission and parole or similar early release measures, should also consider the following factors such as:

- i) The criminal record.
- ii) Type and gravity of the offence.
- iii) Achievement in prison.
- iv) The safety of society.
- v) Family support.
- vi) Job opportunities.
- vii) Environmental adjustment.

The observance and application of the above mentioned factors places the decision making body in a better position to balance the positive effect of the early release, i.e. reintegration and rehabilitation of the prisoners in to society against the risk of recidivism that may pose a danger to the society.

After selecting the prisoners for early release, the question arises as to when to be released. As regards the timing of release, it has also been observed that the minimum period required to be served in the prison before release on remission and parole differs from country to county,

ranging from 3/4th of the sentence in the case of Bangladesh; 2/3rd in the Botswana, Ghana, Kenya, Kiribati, Korea, Malaysia, Papua New Guinea and Pakistan; and 1/2 in Nepal. However, no specific period can be fixed for any prisoners. Here the important factor is that the timing of early release should be selected in such a way that the prisoners should have completed some portion of the sentence in prison as a punishment according to the gravity of the offence; because it creates a deterrent effect for the prisoner as well as for others in society. The remaining portion may be served in the society under supervision. The other factor to be considered is the prospects of the prisoners' re-integration into society.

### **B. Adjustment and Improvement of the Living Environment**

It has also been observed that in all of the participants countries, except Japan, Philippines and Thailand, competent authorities do not consider the adjustment or improvement of the living environment of the prisoners at the time of making a decision about early release.

In fact, the living environment plays a vital role in the reintegration and rehabilitation of a prisoner after release. The living environment does not only mean a place of living, but also includes other factors such as the family, friends or associates, financial situation etc. For example, in the case of drug addicts, the company of friends or relatives in which the addicts associate and the take drugs, play a significant role. Such associations encourage drug use and it becomes very difficult for the addicts to leave their habits, despite their willingness. If such an environment is changed and improved, there is greater chance of reformation in the release and this will ultimately help in their reintegration and rehabilitation into society. Therefore, it is very necessary that before releasing a prisoner, the adjustment

and/or improvement of the living environment be taken into consideration.

### **C. Composition of the Decision Making Body**

It was observed that in many countries, the composition of the decision making body for granting early release is not appropriate. In some cases, it is the Minister of Justice or minister concerned with the portfolio of prisons, but in other cases it is a Parole Board comprising of two, three or more members nominated by the Minister or the Government. In most of the cases, it is only one person who makes the decision. In fact, the professional competency of the members is of paramount consideration, because awarding an early release to a prisoner may have positive as well as negative effects. It is, therefore, very important that the composition of the decision making body be comprised of professionals from respective fields such as psychology, social work, police or prison administration, to ensure that the decision making body makes the right decision about early release; keeping in view the safety of society and also the rehabilitation aspects of the prisoner. Such composition will also ensure the independence of the body.

### **D. Reviewing Lengthy Procedure**

It has been noted that in some countries like Botswana, Nepal, Solomon Islands, Papua New Guinea and Thailand, the procedure for early release is lengthy. It is suggested that:

- i) The laws/rules governing early release must be reviewed and evaluated with the intention of taking advantage of the said privilege.
- ii) There must be a specific timetable to complete the procedure and a speedy review of the cases of those who are to be released.

### **E. Reinforcement and Training of Supervising Staff**

Supervision and aftercare is necessary to ensure the rehabilitation of released prisoner.

Therefore it is suggested that:

- i) There is a need to improve the professional skill of the probation/parole staff engaged in the supervision activities.
- ii) The Volunteer Probation Scheme be taken into consideration by those countries where such schemes are not being used.
- iii) Training of staff is necessary for the supervision of the released prisoner.

### **F. Improving Public Perception**

It has been noted that in most of the participants' countries, the public perception about the early release of prisoners is negative for dangerous or hardened criminals, but positive for minor offenders. In fact, the early release system which is being used with the objective of the rehabilitation of the offenders in to society needs wider publicity.

In participant's countries, the public do not realize the importance/advantage of the rehabilitation aspects of the early release measures. They think that all criminals must be kept behind the bars. Perhaps in this way, they feel a sense of security from the realization that prisoners released before the expiry of their imprisonment may pose a danger or threat to them. It has been observed that not every prisoner is a threat to society. There are various types of offenders, with different backgrounds and offences, and thus they should not be considered equally. There is a need to emphasize the important aspect that there are different types of offenders. Only those prisoners who are dangerous and pose a threat to society should not be released, in order to protect society. However, non-custodial measures could be considered for low risk offenders.

The advantage of early release systems such as remission or parole may be taken into consideration with the sole objective of prisoner rehabilitation. There is also a need for educating politicians on this subject, so that they may extend their full cooperation in making new laws for early release systems, or for making amendments of the existing laws as required.

Therefore, there is a need to create a greater public awareness about the advantages of the early release system for the purpose of the rehabilitation and re-integration of prisoners in society. The public should also be made aware of the cost of keeping and maintaining offenders in prison. It may also be emphasized that imprisonment separates the prisoner from their family and this may have a negative effect on their personality and behavior.

## **VI. CONCLUSION**

In most of the participants' countries, the prison system is confronted with risk of recidivism. The conclusion drawn on the basis of the above discussions, is that the policy of exercising proper early release measures for suitable prisoners seems to be the correct policy. However, it is emphasized that while exercising the option of early release, the authorities must differentiate amongst the various types of offenders, the gravity of offences and the risk of recidivism, keeping in view the safety of society and the rehabilitation prospects of the prisoners.