

Recommendation

54. Canadian governments should consider the possibility of agreements with foreign governments on exchange of parole supervision.

Conditions of Parole

In our redefinition of parole, we specifically referred to parole as a conditional release. When the parole authority decides to return offenders to the community, it attaches conditions. If they fail to respect the conditions, they can be returned to correctional institutions to continue serving their sentences in confinement. Our concern, as this point, is with the obligations and restrictions in the agreement between the parole authority and the paroled inmate.

The Committee holds that the conditions of parole should conform to its basic principles of public protection, fairness and coherence. Wise enforcement of the conditions should also lead to protection against further criminal activity. Enforcement which is either too harsh or too lenient could make it difficult for the parolee to function properly. The basic purpose of parole conditions is to regulate the relationship between the parole authority and the parolee and benefits should accrue to both parties.

To ensure some degree of fairness parole agreements should contain the same standard conditions which should be incorporated in the parole legislation. Whenever the parole authority decides to release an offender on parole, it could strike out the conditions which are not considered applicable to his case, e.g., the condition obliging the parolee "to meet his family obligations" if he is unmarried and orphaned. Should he later marry, the condition could be reinserted. In addition to standard conditions, parole agreements must be sufficiently flexible to provide for conditions that may apply in special circumstances, e.g., the need for special medical treatment. The standard conditions should apply to all released on discretionary parole and minimum parole. However, (as explained in the previous Chapter) for those serving sentences of less than six months who are released on minimum parole, only one condition should be necessary, i.e., parole shall be automatically forfeited by conviction for any indictable offence committed during the period of minimum parole.

Failure to conform to parole conditions may lead to the paroled inmate being returned to confinement. It is relatively easy to decide when the parolee has committed an offence and social protection requires his confinement. There are also situations where he may have failed to abide by conditions set in his parole agreement but the issue of social protection is unclear. Violations of parole conditions should therefore be subject to examination in revocation hearings together with the appropriateness and reasonableness of the conditions themselves. The principle of fairness requires this since the parole authority could have imposed unreasonable restrictions for which the parolee should not be held responsible.

Parolees should be bound by all conditions until the expiry of their sentence unless they are specifically exempted by the parole authority. The authority should have the power to delete or vary conditions at the time of release or any time thereafter on its own initiative or at the request of the parolee. It should also be empowered to add special parole conditions to the standard conditions but these should be subject to examination