

Recommendation

58. Parole legislation should not be utilized to terminate sentences and the power to discharge from parole before its expiry should be abolished.

3) *Suspension*. Suspension of parole is an interim measure rather than final termination of parole. It is used to initiate a review of the case to determine whether the parolee should be returned to detention by revocation or allowed to remain on parole despite uncertainty about his behaviour. We examine certain aspects of suspension procedures that need modification to conform with our basic principles. The following have been drawn to our attention by reports, oral testimony and written briefs:

- statutory reasons for suspension "...that the arrest of the inmate is necessary or desirable in order to prevent a breach of any term or condition of the parole, or for the rehabilitation of the inmate or the protection of society."²
- time taken by the parole authority to decide whether to revoke parole.
- committal warrant upon suspension of parole must be endorsed by the magistrate.

i) *Reasons for suspension*. Parole conditions, except that which requires parolees to obey the law, relate to behaviour which would not be considered criminal or reprehensible in the case of a person other than a parolee. It is, therefore, difficult to understand why a parolee should be arrested to prevent a breach of any term or condition of parole.³ This implies the inevitability of a violation or breach. We question that this can be clearly foreseen.

A "therapeutic suspension", i.e., arresting for the rehabilitation of the paroled inmate, is similarly questionable. It is not clear what "arrest for the parolee's rehabilitation" means. No evidence has been submitted on the rehabilitative effects of arrest and incarceration for a brief time. In the absence of such evidence, it appears wrong to incarcerate paroled inmates without evidence of an actual substantial breach or of serious danger. There are other controls available to the parole supervisor. Parole conditions can be modified and made more stringent. If the parolee has committed a crime, arrest is justified. If the crime is an indictable offence punishable by a term of two years or more, his parole may be forfeited automatically by conviction. If the courts decide to keep him in custody until his trial, there is no further danger to the public but, if he is released on bail, it may be necessary to consider whether his total behaviour constitutes a breach of parole and, perhaps, suspension should be ordered. If he has not committed a crime or breached parole conditions, or otherwise became a danger to the public, we do not see how incarceration for "rehabilitation" can be justified. There should be more specific reasons to justify arrest upon suspension of parole. In our opinion, the only instance in which broad discretion should be allowed, because specific guidelines cannot be provided, is arrest for the protection of society.

Recommendation

59. Parole legislation regarding suspension of parole should provide that suspension be justified only:

- a) when the parolee has breached any of the terms or conditions of parole, or is about to commit an offence, or