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CONCEPT AND LEGAL SIGNIFICANCE OF PAROLE

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Abstract: General Background: The institution of parole plays a crucial role in the criminal justice system, allowing for early release from incarceration under specific conditions. **Specific Background:** This article provides a comprehensive analysis of the concept of parole, exploring its definitions, terms, and socio-legal implications, particularly within the context of Uzbek criminal law. **Knowledge Gap:** Despite the existing literature, there is a lack of thorough examination regarding the historical development, normative frameworks, and the comparative analysis of parole systems in various jurisdictions. **Aims:** The aim of this research is to elucidate the essence of parole, critically assess the legal framework governing its application, and analyze scholarly opinions from both Uzbek and international experts. **Results:** The findings reveal significant insights into the modifications and statutory changes concerning parole, supported by legal statistics and empirical data. **Novelty:** This study contributes to the discourse by integrating scientific methodological approaches to dissect the complexities of parole, offering a comparative perspective that enhances understanding of its global applications. **Implications:** The conclusions drawn from this research underscore the necessity for legal reforms and policy recommendations, aiming to improve the efficacy of parole as a rehabilitative measure within the criminal justice system. This article ultimately advocates for a balanced approach to parole, promoting both public safety and the reintegration of offenders into society.

Keywords: Parole, Punishment, Terms Of Punishment, Criminal Code, Institution Of Punishment, Regime, Liability, Law

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Introduction

The main goal of the comprehensive changes and reforms taking place in Uzbekistan is to glorify human dignity. Therefore, we can consider that these reforms also apply to the criminal law and the system of punishment. The main reason for this is that certain institutions of criminal law have a positive value for people and individuals. In particular, the application of punishment to a person who committed a crime includes such processes as determining the punishment, its execution or suspension of the punishment. One of the process of suspension of the sentence is, of course, parole. At the same time, the humanitarian principle emphasized in the Criminal Code of the Republic of Uzbekistan is also reflected in the institution of parole before serving the sentence.

Methods

Scientific methods such as analysis and synthesis, deduction and induction, comparison and comparison were used to research the topic given in this article.

On this topic, Uzbek scientists R. Ikramov, M. Kh. Rustambayev, E. Turgunbayev; from foreign scientists D.J. Newman, P.R. Anderson, Plyusnin A. The scientific views of M were analyzed, in order to enrich the article with foreign information, the criminal legislation of countries such as Canada, Azerbaijan, Kyrgyzstan, South Korea, Japan, and China was used.

Results and Discussion

The roots of the concept of early parole are found in the rich history of our country. As an example, we can cite the ancient "Avesta". Because this source is a monument of the history of the peoples of Central Asia, it contains certain elements of the currently formed criminal law and concepts related to punishment, application of punishment, and exemption from punishment. For example, adulterers sentenced to death could atone for their sins by building a bridge over 14 ditches [1]. This can also be one of the historical examples of parole. According to the experience of international countries, parole was officially used for the first time in the 18th century in the legislation of the Austrian state. According to it, convicts who "have good behavior and are on the path to serious recovery" are released on parole after serving more than half of their sentence[2].

Parole in our country is regulated by the norms of the Criminal Code of the Republic of Uzbekistan. According to the theory of criminal law, parole is the release of the defendant from the obligations imposed by the court during the time the sentence has not been served. is to be released from continuing to serve the sentence on the condition that he fulfills it and maintains social order and does not commit a new crime[3]. The application of conditional release before serving the sentence has legal significance, along with an educational nature and serves as a tool to effectively encourage positive legal action. For the unexpired part of the sentence, factors such as the fact that the person's behavior has changed in a positive way, the sense of obedience to the law, and the need to justify the trust expressed by the state are required.

M. Kh. Rustambayev explains that conditional release before serving the sentence is the release of the defendant from continuing to serve the sentence on the condition that the defendant fulfills the obligations assigned to him by the court and maintains social order and does not commit a new crime during the time the sentence has not been served.[4].

According to the criminal law, parole may be applied to persons who have been sentenced to deprivation of liberty, sent to a disciplinary unit, service restriction, restriction of liberty, or correctional work. A person may also be exempted from an unenforced additional penalty[5]. In order to apply this institution, a person (convict) is required to fulfill the requirements of the procedure in accordance with the established rules for serving the sentence and to have an honest attitude towards work. The term "honest attitude to work" refers to the fact that convicts are involved in work and are consistently and honestly fulfilling their assigned work duties and the established norms, which is considered a criterion that indicates that he has entered the path of honest work, and he is released on parole from serving his sentence. It is the basis for presentation [6]. An honest attitude to work is manifested first of all in the active participation of the prisoner in the work activities organized in the prisons. This attitude is expressed by the convict in production, agriculture, household work, beautification work in the territory of the colony, and honest performance of various other socially useful works. An honest attitude to work also occurs when a prisoner learns a certain trade, improves his skills, and teaches others his work experience.

Taking into account the above factors, foreign scientists [7] also classify the following features of early release from serving the sentence as follows:

- it reduces the severity of long-term imprisonment and shortens the term of the sentence;
- an effective way to achieve rehabilitation of the prisoner, compared to long-term isolation of the prisoner from society;
- safer than unconditional release from punishment, because the person gradually adapts to the life of the society with the help of the supervision of the controlling authorities.

Part 3 of Article 73 of the Criminal Code of the Republic of Uzbekistan provides the grounds

for early parole. According to him:

- at least one-third of the term of the sentence imposed by the court for a crime of low or low social risk;
- for a serious crime, as well as for a crime committed intentionally, if the person was previously sentenced to deprivation of liberty for a crime committed intentionally, at least two-thirds of the sentence imposed by the court;
- if a person who was released on parole before the term of the sentence or whose sentence was replaced by a lighter one was sentenced for a very serious crime, as well as for committing a new crime on purpose during the unserved part of the sentence, at least the full term of the sentence imposed by the court It can be applied after actually passing three parts of the rt.

If we analyze the third part of Article 15 and Article 73 of the Criminal Code together, parole applies to persons who have served one third of their sentence, to persons convicted of any crime committed through negligence, as well as Early parole may be applied to persons who intentionally commit crimes punishable by imprisonment for a term of not more than five years. Convicts who have been sentenced to correctional works, service restrictions or sent to a disciplinary unit may be released on parole from serving the sentence in accordance with Article 73, Part 3, Clause "a" of the Criminal Code, if there are grounds.

- In addition, there are grounds for which the rules of conditional release before serving the sentence are not applied, and they are the following:
 - • to a person sentenced to life or long-term imprisonment;
 - • to a very dangerous recidivist;
 - • organizers and participants of an organized group or criminal association;
 - • intentional homicide in cases of aggravating responsibility, defamation of a victim under the age of eighteen or using violence against him, satisfying the sexual need in an unnatural way, sexual intercourse with a person under the age of eighteen forced to have sexual intercourse with a person under the age of 16, sexual intercourse with a person under the age of sixteen, sexual intercourse with a person under the age of sixteen bringing into the territory of the Republic of Uzbekistan for the purpose of distributing, advertising, or showing a pornographic product in which a minor is described or depicted, as well as preparing, distributing, advertising, showing it, or involving a minor as a performer of pornographic acts , colluding with a minor, establishing or maintaining brothels, committing a crime against the Republic of Uzbekistan, peace and human security, manufacturing nuclear, chemical, biological and other weapons of mass destruction, such weapons It does not apply to persons convicted of smuggling materials and equipment that can be used for [8].

Research Results Analysis

Another goal of early release is to educate prisoners and prevent repeated crimes. At the same time, the prisoner is required to demonstrate that he has passed the path of moral recovery. Moral correction of the convict consists in forming in him a law-abiding behavior, respect for the person, society, work, rules and traditions of society [9]. In this case, the main means of moral correction of the convict are the prescribed order (regime) of execution and serving of the sentence, social and useful work, educational work, general and vocational education, vocational training and public influence.

Regimen means "resime" in French and "regimen" in English. The regime is a set of rules, norms and measures to achieve a specific goal. The fact that a person serving a sentence in a penal

institution conscientiously follows the procedures established in the institution, observing the rules of the term established in Article 73 of the Criminal Code is the basis for the application of the law on early release from serving the sentence. .

In the cases provided for in Article 73 of the Criminal Code, early conditional release from punishment is applied by the judge based on the presentation of the administration of the penal institution or the petition of the prisoner or his defender. Within one month after the sentence of the convicted person has passed the specified part of the terms specified in Article 73 of the Criminal Code, the institution that executes the sentence will consider the issue of early conditional release of the person from the sentence[10] and apply to the court with a presentation on this issue. does. If the institution rejects the issue of early parole, the prisoner or his lawyer can apply to the court. Because early release from serving the sentence is carried out by the court.

In addition, if the presentation and petition related to the above issue is rejected by the court, it can be reconsidered by the court after 6 months from the date of the rejection decision [11]. It can be seen that during this period the prisoner can eliminate the shortcomings identified in him and can show that he is morally improving.

This legal institution exists in the criminal legislation of various foreign countries, but the structure of the concept of early conditional release from punishment in the criminal legislation of the countries is different, but its purpose has almost similar characteristics.

In particular, according to Article 72 of the Criminal Code of the Republic of South Korea[12], a person who has behaved well and is sincerely remorseful and who has not been sentenced to imprisonment or imprisonment shall be sentenced to ten years to life imprisonment or in the event of a sentence of one third of the limited term of imprisonment, parole may be granted by an act of the administrative authorities. In addition, any parolee is subject to probation during the term of parole. Provided that, this parole may not be applied in cases where the administrative authority granting parole deems it unnecessary.

Under South Korea's criminal code, early parole is revoked if a parolee commits a crime intentionally, but this rule does not apply to acts committed out of recklessness.

According to the Criminal Code of the Kyrgyz Republic[13], persons sentenced to imprisonment or detention in a disciplinary military unit may be conditionally released from serving the sentence by the court. There are partial similarities between the norms of parole of the criminal legislation of the Kyrgyz Republic and the norms of the criminal legislation of the Republic of Uzbekistan. For example, in order to be released on parole, the prisoner must have achieved positive results of rehabilitation and re-socialization, if there is damage, he must have compensated at least half of the damage caused by the crime, he must have a conscientious attitude to work and study while serving the sentence. is applied only if the conditions are met. According to the criminal legislation of the Kyrgyz Republic, parole before the term of the sentence is applied by the court at the place of serving the sentence by the convict at his personal application or at the presentation of the administration of the institution of the penal system. Prisoners released on parole before the term of their sentence shall serve at least two-thirds of the sentence imposed for a less serious crime, at least three-fourths of the sentence imposed for a serious or extremely serious crime, to an agreement with the victim within the framework of mediation. those who have achieved - shall be applied after serving at least half of the sentence imposed for committing a less serious crime, or at least twenty-five years in the case of life imprisonment.

In Canada, the parole system is an important aspect of the criminal justice system and is an institution that aims to maintain a balance between promoting the reintegration of offenders into

society and ensuring public safety. Canada's parole system is primarily governed by the Corrections and Conditional Release Act, 1992 (CCRA), as well as the Parole Board of Canada (is governed by regulations established by the Parole Board of Canada (PBC).

Criminals serving prison terms in Canada are eligible for parole depending on the type of sentence and the length of time served. Eligibility criteria are set out in the CCRA and include factors such as the nature of the offence, the length of the sentence, the offender's conduct and progress towards rehabilitation. The Parole Board of Canada is an independent administrative body responsible for making parole decisions. The Board assesses the risk posed by the offenses committed and determines whether or not they can be safely released into the community on parole. The board also sets conditions of parole and supervises parolees to ensure compliance with them. There are two main types of parole in Canada: day parole and full parole. Day parole allows a person to return home or to an institution later in the day and participate in community activities during the day. Full parole allows offenders to serve the remainder of their sentence in a supervised open community, subject to certain conditions. If a parolee violates the conditions of parole, the Board has the power to revoke parole and imprison the offender. Overall, the parole system in Canada plays a critical role in maintaining public safety, rehabilitation and the successful reintegration of offenders into society. It operates within a framework that balances the interests of offenders, victims and society, based on the principles of accountability and risk management.

According to the Criminal Code of the Republic of Azerbaijan[15], conditional early release from serving a sentence is a punishment in the form of judicial correctional work, restriction of military service, restriction of freedom, detention in a disciplinary military unit, deprivation of liberty for a certain period or deprivation of liberty for life. can be applied only if it is concluded that the passing person does not need to serve the sentence. In this case, the person may be fully or partially exempted from the main and additional punishment. When applying conditional early release from serving the sentence, the court can impose a number of obligations on the prisoner that must be fulfilled during the remaining part of the sentence.

According to the criminal legislation of Azerbaijan, the institution of conditional release may be applied to the convict after serving the sentence for the following periods:

- in the amount of not less than half of the punishment imposed for a crime that is not of great social danger or not very serious;
- at least two-thirds of the term of the sentence imposed for committing a serious crime;
- at least three quarters of the term of the sentence imposed for committing a serious or extremely serious crime.

According to Article 76 of the Criminal Code of the Republic of Azerbaijan, if a person has committed a crime that does not cause great public danger due to carelessness or on purpose, the issue of canceling or maintaining conditional release from serving a sentence is decided by the court. if a person intentionally commits a minor, serious or extremely serious crime, the court shall conditionally cancel the sentence against him and impose a punishment in the appropriate manner.

According to Article 28 of the Criminal Code of Japan[16], if serious signs of reformation are found in a person sentenced to imprisonment or imprisonment without work, after the person has served one-third of the prescribed period or 10 years in the case of life imprisonment, the state may be released on parole by the decision of the body.

According to the criminal law of another developed country, China[17], if there is evidence of repentance during the execution of the prison sentence, twenty-five years of life imprisonment or one-half of the prison term for a recidivist After serving part or two-thirds of the sentence of

deprivation of liberty, deprivation of liberty before the term of the sentence may be imposed after the sentence has been served, according to the application of the body executing the sentence to the Ministry of Justice.

Based on the examples given above, it is possible to understand the essence and legal nature of the concept of early parole.

According to E. Turgunbayev, the institution of release from punishment shows the principle of humanity. Based on this opinion, we must say that legal norms in the criminal legislation are improving due to the ongoing judicial reforms. In particular, in recent years, the bases of liability and immunity from punishment have been simplified, sanctions for certain types of crimes have been eased, and incentive norms aimed at immunity from liability have been introduced.

Also, as a humanitarian act, the practice of imposing a lighter sentence on persons who committed a crime, including parole and commutation of the sentence with a lighter one, was further expanded. And this, as we said above, creates the basis for the perfect implementation of the humanitarian principle in practice. In particular[18], 21,780 persons were paroled in 2021, and 26,753 in 2022. All these above positive figures show that the process of liberalization in criminal law is progressing, that prisoners serving sentences in penal institutions are on the road to recovery, a sense of obedience to the law is forming, the "humanitarian principle" of criminal law, along with this, human dignity indicates that the reforms aimed at glorification also encompassed the criminal law.

But there is also a second aspect of the matter. The prisoner's recovery and positive behavior serve as the initial criteria for early parole. Above, we have listed the requirements for early parole based on the level of seriousness of crimes. Of course, the term of the sentence served by the convict is also important here. Therefore, a natural question arises, to what extent does the mitigation of the punishment achieve the intended purpose of the punishment? After all, does the person who committed the crime draw a conclusion from his act, understand and understand its consequences?

Amendment to the Criminal Code of the Republic of Uzbekistan by the Law of the Republic of Uzbekistan "On Amendments and Additions to the Criminal and Criminal Executive Codes of the Republic of Uzbekistan" adopted on March 23, 2023 entered. According to it, the word "half" in paragraph "b" of Article 73, part 3 of the Criminal Code is replaced by the words "two-thirds", and the words "two-thirds" in paragraph "v" are replaced by "fourths". was replaced by the words "three". This includes the fact that the process of rehabilitation of prisoners is slow, that during the period of serving their sentence in penal colonies, some prisoners arbitrarily leave the territory of the penal institution in violation of the established procedures, the most regrettable, severe and Cases of recidivism of serious crimes and violations of the strict regime established in penal institutions by convicts may have been the cause. For example, according to the information provided by the Supreme Court of the Republic of Uzbekistan[19], in the last 9 months of 2023, a total of 54,936 criminal cases were brought against a person who committed a socially dangerous act by criminal courts. 'considered. The dynamics of criminal convictions[20] of individuals are 45,010 in 2021, 56,542 in 2022, and 41,340 in the last 9 months of 2023.

Based on these given statistics, we can say that the numbers are increasing day by day, and how necessary are the above-mentioned amendments and additions to Article 73, Part 3 of the Criminal Code of the Republic of Uzbekistan. represents the fact that Because the release of people who have committed a crime without achieving the main educational goal of the punishment, after serving a part of the sentence, causes a decrease in trust in the law, laws and justice in the society, and at the same time, it causes an increase in the number of people who commit crimes again. it can.

Conclusion

As a final part, we can say that parole serves as an institution that ensures the "humanitarian principle" emphasized in Article 7 of the Criminal Code of the Republic of Uzbekistan. But in order to implement the norms of this law, it is necessary for the prisoner to comply with the relevant provisions.

In fact, it takes a certain amount of time and opportunity for the prisoner to go on the road to recovery and to form a positive opinion about the law through the changes and additions made to the parts of this institution. Therefore, we can say that the concept of early parole serves as a motivating criterion for convicts who are serving their sentences due to the conscientious fulfillment of the norms established in the institutions of execution of punishment.

To summarize in general, early parole is for persons who have been sentenced to the punishments stipulated in the relevant article of the Criminal Code, have actually served the prescribed part of the sentence and fulfilled the requirements, when there are no grounds for excluding them from parole, is a criminal incentive measure used by the courts.

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