

Q: what is parole? what is probation? and discuss the conditions of Probation.

1. Definition of Parole

Parole is a method of releasing an inmate from prison before they complete their full sentence. It is a form of conditional release where the offender is supervised in the community, and they must adhere to certain conditions set by the parole board. Parole includes two main components:

- Parole Release:

The mechanism through which prisoners are released early from incarceration.

- Parole Supervision:

After release, the offender remains under community supervision to ensure compliance with set conditions.

Key Characteristics of Parole:

- Parole is not a court-imposed sentence but is granted at the discretion of a parole board.

- It applies to individuals who are being released from prison, unlike probation, which can be given as an alternative to prison.

2. Definition of Probation:

Probation is a form of community correction where the offender avoids imprisonment and is allowed to remain in the community under the supervision of a probation agency. This sentence typically comes with rules and conditions designed to protect the community and facilitate the offender's rehabilitation.

Key Characteristics of Probation:

- Probation allows the offender to remain free in the community, but under supervision.

- The main objectives of probation are to assist the court with sentencing, promote community safety, and help in the rehabilitation of the offender through appropriate services.

History of Probation:

The concept of probation was introduced by John Augustus, a Boston shoemaker, in the 1840s. He stood bail for select offenders and took responsibility for their supervision. His efforts led to the formal probation system in the United States.

3. Conditions of Probation

There are two types of probation conditions that an offender must comply with to avoid being incarcerated:

a. Standard (General) Conditions:

These are mandatory conditions imposed on all individuals under probation, which include:

- Regularly reporting to a probation officer.
- Staying employed.
- Avoiding any criminal activity.
- Abiding by travel restrictions.

b. Special Conditions:

These are specific to the individual offender and are imposed at the discretion of the judge or probation officers to address the offender's particular situation. Examples of special conditions include:

- Attending counseling sessions.
- Completing community service hours.
- Paying restitution to victims.

4. Process of Probation Placement:

When deciding whether an offender should be placed on probation, the judge considers:

- Recommendations from statutes and structured sentencing guidelines.
- Input from the prosecution and defense attorneys.
- The offender's behaviour and characteristics as reflected in the presentence investigation (PSI) .

5. Presentence Investigation (PSI) Report:

The PSI report is an essential tool in determining whether an offender is suitable for probation. This report is prepared by a probation officer and includes:

- The offender's background.
- Family circumstances.
- The nature of the offense.
- Any prior criminal history.

6. Termination of Probation:

Probation can be terminated in two main ways:

a. Successful Discharge:

When the probationer successfully complies with all conditions set by the court, they are recommended for release from probation.

b. Revocation:

Revocation occurs when the probationer fails to comply with the conditions. This can happen in two ways:

- Commission of a New Offense: Committing another crime during the probation period.
- Technical Violations: Violating the specific conditions of probation, such as failing to report to a probation officer or failing to attend required counseling sessions.

7. Differences Between Parole and Probation:

- Source of Authority:

Probation is a court-imposed sentence, while parole is granted by a parole board.

- Timing:

Probation is given as an alternative to imprisonment, while parole is granted after serving part of a prison sentence.

- Supervision: Both involve supervision, but the nature of the supervision and the conditions may differ.

8. Intermediate Sanctions:

As prison populations have grown, the use of "intermediate sanctions" has expanded. These are sanctions that fall between traditional probation and imprisonment, and include options like:

- Intensive Supervision Probation (ISP):

A stricter form of probation with closer supervision and more treatment services.

- Home Confinement and Electronic Monitoring

: Offenders are confined to their homes with monitoring, allowing for some freedom but under strict surveillance.

- Day Reporting Centers : Offenders are required to report regularly to these centers for supervision and services.

9. Procedures and Functions of Probation and Parole in Pakistan

In Pakistan, probation and parole are governed by specific laws:

Probation Procedures:

- The Probation of Offenders Ordinance (1960) allows certain offenders to be placed on probation for up to 3 years. The Reclamation and Probation Department supervises and monitors them in the community.

- A Social Investigation Report (SIR) is prepared before granting probation, detailing the offender's background, nature of the offense, and home environment.

Parole Procedures:

- The Good Conduct Prisoners' Probation Release Act (1926) allows the provincial executive to release offenders on parole, primarily to separate them from hardened criminals in jail and provide them with employment under supervision.

- Parole officers in Pakistan monitor and assist parolees, and work closely with employers to ensure that the parolees meet the terms of their release.

Q: procedures and problems of criminal courts in Pakistan:

The criminal justice system in Pakistan follows a set of legal procedures that are structured into various stages, involving police, courts, and correctional institutions. Here's an outline of the procedures and the system:

1. Investigation and Arrest

- **Police Role:** The criminal justice process usually begins when a complaint or a First Information Report (FIR) is lodged. The police conduct investigations to gather evidence, question witnesses, and arrest suspects if required.

- **FIR:** An FIR is a formal complaint filed with the police about a cognizable offense. It initiates the criminal investigation process.

2. Judicial Process

- **Magistrate's Court:**

After the investigation, the accused is presented before a magistrate, who determines if the case warrants trial. The magistrate can either release the accused on bail or send them to judicial custody.

- Sessions Court:

If the offense is serious, the case proceeds to the Sessions Court, where the trial takes place.

- Trial Procedure:

- Prosecution and Defense:

The prosecution presents evidence, and the defense has the right to challenge it. The court hears witnesses, examines documents, and considers all relevant materials.

- Cross-examination:

Both sides have the opportunity to cross-examine witnesses to establish facts and challenge the evidence.

- Judgment:

The court, after reviewing all evidence, delivers its judgment, either acquitting or convicting the accused.

3. Appeal Process:

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- If a party is dissatisfied with the court's judgment, they have the right to appeal to a higher court, including the High Court or Supreme Court of Pakistan, depending on the nature of the case.

4. Corrections and Rehabilitation:

- Sentencing:

Upon conviction, the accused is sentenced based on the offense, which may include imprisonment, fines, or both.

- Prison System:

The convicted individuals are sent to prison, where they serve their sentences. There are provisions for rehabilitation and reintegration into society.

Problems in the Criminal Justice System

- Delays:

One of the significant issues is the backlog of cases, leading to delays in justice.

- Corruption:

Corruption at various levels, especially in the police force and lower judiciary, hampers the fairness of the system.

- Access to Justice:

Many marginalized communities face difficulties in accessing the legal system due to lack of resources or legal representation.

- Overcrowding in Prisons:

Pakistan's prisons are often overcrowded, which affects the rehabilitation process.

As of 2023, Pakistani prisons are facing severe overcrowding, operating at 57% beyond their capacity. The country's 127 jails house over 88,000 inmates, while their official capacity is only 65,168. This overcrowding is most pronounced in provincial prisons, such as those in Punjab and Sindh, where some jails hold more than three times their intended capacity. For instance, the Malir jail in Karachi, with a capacity for 1,800 prisoners, houses more than 6,000 inmates.

The overcrowding issue is largely due to a high number of undertrial prisoners, who make up nearly two-thirds of the total prison population. These

prisoners remain incarcerated for extended periods due to delays in the judicial process, contributing to the strain on prison facilities. This situation has resulted in poor living conditions, with inmates exposed to health risks such as communicable diseases due to inadequate medical care, lack of sanitation

These procedures are part of Pakistan's broader legal framework, which follows a mix of common law principles and Islamic law (Sharia).

Here's a detailed breakdown of the criminal justice system of Pakistan, along with references to key legal provisions from the law:

Q: enlist and discuss principles and problems of criminal investigation. Give examples from Pakistan.

1. Investigation and Arrest

- Filing of an FIR (First Information Report):

The procedure for lodging an FIR is governed by Section 154 of the Criminal Procedure Code (CrPC), which requires that the police must record information about a cognizable offense.

- Arrest Without Warrant:

Under Section 54 of the CrPC, the police have the authority to arrest someone without a warrant if they have credible information that the person has committed a cognizable offense.

2. Judicial Custody and Remand:

- Police Custody:

According to Section 167 of the CrPC, after arresting an individual, the police must produce the accused before a magistrate within 24 hours. If the investigation is incomplete, the magistrate may remand the accused in police custody for up to 15 days in total.

- Judicial Custody:

If further custody is required, the accused may be placed in judicial custody (jail) rather than police custody. Extensions beyond 15 days can only be granted by a magistrate.

3. Bail:

- **Bailable and Non-Bailable Offenses:** The distinction between bailable and non-bailable offenses is described under ****Section 496 and 497 of the CrPC****. In bailable offenses, the accused has the right to be released on bail, while in non-bailable offenses, bail is subject to the court's discretion.

4. Trial Procedure:

- Framing of Charges:

The charges against the accused must be framed formally under Section 242 of the CrPC in the case of warrant cases and Section 265-D of the CrPC in Sessions trials. The accused has the right to plead guilty or not guilty.

- Examination of Witnesses: Sections 161 and 162 of the CrPC detail the process of examining witnesses and recording their statements during the investigation and trial.

- Cross-Examination:

According to **Section 137 of the Qanun-e-Shahadat Order, 1984** (Pakistan's law of evidence), the defense has the right to cross-examine prosecution witnesses.

5. Judgment and Sentencing:

- Judgment:

After considering all the evidence, the court delivers its verdict under Section 366 of the CrPC. If the accused is found guilty, the court moves on to sentencing.

- Sentencing: Sentencing guidelines are provided under various sections depending on the offense. For instance, Section 302 of the Pakistan Penal Code (PPC) prescribes punishments for murder, which include the death penalty or life imprisonment.

6. Appeals

- Right to Appeal: The right to appeal is available under Section 410 to 419 of the CrPC. A convicted person can appeal to the High Court or, in certain cases, the Supreme Court.

7. Correctional and Prison System

- Prison Sentences and Parole: The prison system is governed by the Prisons Act, 1894, and there are provisions for parole under the Good Conduct Prisoners' Probational Release Act, 1926.

Common Problems in Criminal Justice System with Legal References:

- Delays in Justice:

Section 344 of the CrPC allows courts to adjourn cases, which is often misused, leading to long delays.

- Bail Misuse:

Bail provisions under

Section 497 of the CrPC are often misapplied due to judicial discretion, sometimes resulting in

wrongful detainment or granting bail to influential criminals.

The CrPC (Criminal Procedure Code) and PPC (Pakistan Penal Code) are central to the functioning of the courts and law enforcement in criminal cases.

Here are some notable examples of criminal justice system cases from Pakistan, highlighting significant issues and problems:

Example of cases : problems in the justice system of Pakistan

1. Salman Taseer Assassination (2011)

- Summary:

Salman Taseer, the Governor of Punjab, was assassinated by his own bodyguard, Mumtaz Qadri, due to Taseer's opposition to Pakistan's blasphemy

laws and his support for Asia Bibi, a Christian woman accused of blasphemy.

- Issues:

- Blasphemy Laws: The case brought attention to Pakistan's controversial blasphemy laws, which are often misused to target minorities and settle personal scores.

- Extremism in Law Enforcement: Qadri was a member of the police, highlighting the presence of extremist views within law enforcement agencies.

- Judicial Process: Despite being convicted, Qadri was celebrated by many as a hero, reflecting deep societal divisions and the challenge of enforcing laws without facing public pressure.

- Impact: The case underscored the need for reform in blasphemy laws, and the role of the state in combating extremism within its own institution

2. Shahzeb Khan Murder Case (2012)

- Summary: Shahzeb Khan, a young man in Karachi, was killed following a confrontation with

Shahrukh Jatoi, the son of an influential feudal lord. Despite the severity of the crime, Jatoi initially evaded arrest and received a lenient sentence.

- Issues:

- Feudal Influence: The case highlighted how feudal influence and wealth often allow powerful individuals to evade justice in Pakistan.

- Weak Prosecution: There were concerns that the case was not properly handled by law enforcement due to pressure from powerful elites.

- Out-of-Court Settlements: Jatoi's eventual release on bail due to a "forgiveness" settlement with the victim's family, under Pakistan's "Qisas and Diyat" law, raised questions about the fairness of allowing wealthy perpetrators to avoid punishment.

- Impact: The case sparked a debate on legal reforms, particularly around the "Qisas and Diyat" laws, and the need for a more impartial criminal justice system.

4. Zainab Ansari Case (2018)

- Summary: Zainab Ansari, a six-year-old girl from Kasur, was abducted, raped, and murdered, leading

to public outrage. The perpetrator, Imran Ali, was apprehended after a nationwide manhunt.

- Issues:

- Child Abuse: The case exposed the rampant issue of child abuse and sexual violence in Pakistan, particularly in Kasur, which had a history of similar cases.

- Failures in Law Enforcement: The case demonstrated the inefficiency of local law enforcement, which failed to act quickly in previous child abuse cases, leading to mistrust in the police.

- Vigilante Justice: Public frustration with the criminal justice system's slow response led to calls for mob justice, reflecting a lack of faith in the judiciary.

- Impact: The case spurred legislative changes, including the introduction of stricter punishments for child abusers and improvements in child protection laws.

5. Suo Moto Case on Police Encounters (Naqeebullah Mehsud Case, 2018)**

- Summary: Naqeebullah Mehsud, a young man from Waziristan, was killed in a fake police encounter led by senior police officer Rao Anwar in Karachi. The case became prominent after it was revealed that Mehsud was an innocent man and the encounter was staged.

- Issues:

- Police Brutality: The case shed light on the widespread problem of extrajudicial killings and staged encounters by the police, often used to cover up corruption or settle personal vendettas.

- Impunity for Police: Rao Anwar was initially shielded from prosecution due to his influence and connections, demonstrating how police officers often enjoy impunity in such cases.

- Ethnic Targeting: There were claims that Mehsud was targeted because of his Pashtun ethnicity, which raised concerns about ethnic profiling by law enforcement agencies.

- Impact: The case led to a national debate on police reforms, extrajudicial killings, and the accountability of law enforcement officials.

These cases from Pakistan's criminal justice system illustrate the challenges of corruption, inefficiency, political influence, and social inequality that hinder the delivery of justice. Each of these cases underscores the need for reforms to address these deep-rooted issues.

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