

Analyzing the efficiency of Taiwanese Parole System: with a Glimpse into Systems in the UK, the USA, Sweden and Japan

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Abstract

In order to systematically observe efficiencies and problems of rules and execution of Taiwanese parole system and to search solutions of law and policy for the parole system, this paper aims to present the standpoint of the Ministry of Justice, laws and data regarding sentence served before parole, parole approval and parole revocation.

Meanwhile, this paper also aims to analyze the systems and backgrounds of conditional release or supervised release from the UK, the USA, Sweden and Japan. We found that Taiwanese parole system has been designed to reach the goal of social safety preferably by adopting severe punishment and neglect the original goal of rehabilitation. This trend may cause high prison rate and high recidivism rate like supervised release in the USA.

Moreover, though the standards for parole have been made by Ministry of Justice, it is much important to legalize the standards to protect prisoners' constitutional rights, and to reveal the fairness of parole boards from district prisons and Agency of Corrections. For practicing rehabilitation and reducing recidivism rate by community corrections, it is also important to demonstrate the efficiency of parole via long-time tracked data, and to help rehabilitate prisoners, even if under the pressure of public opinion.

Keywords: parole, rehabilitation, supervised release, conditional release, Karishakuhou

Note:

This paper is the English translation of the study report “Analyzing the efficiency of Taiwanese Parole System: with a Glimpse into Systems in the UK, the USA, Sweden and Japan” published by the Academy for the Judiciary, Ministry of Justice in 2017 (DOI: 10.6460/CPCP.201712_(15).0003. This paper with footnotes is presented only in Chinese version.). The proper nouns were unified before uploaded to prevent misleading. The Act of Prison mentioned in this paper has been amended in January 2020, however, it does not affect the idea in this paper. The amended article has been noted with the current provisions.

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The purpose of the present paper is to provide legal and policy-related directions related to problems in parole system in Taiwan. This paper will observe the parole system and its enactment with proper attention to context, as well as its effects and related problems, in particular regulations and data associated with parole policies for serving of prison terms, approval of release, and revocation of parole. This paper will also incorporate recent interpretations and developmental directions of the Ministry of Justice with respect to parole policy.

In the comparative research, this paper will look into the parole system of the UK, the US, Sweden, and Japan, each having different intellectual background. The unique sociohistorical backgrounds of Taiwan, England and Wales, the US Federal Government, Sweden, and Japan have, each in its own way, developed parole policies and obligations for release for prisoners as well as legal ramifications for the violation of such obligations. This paper will also look at the publicly available data from each country to investigate the results of their parole systems and the possible issues arising therefrom.

Although the results compiled from this study were unable to produce an in-depth analysis of the parole system in each of the nations studied, we will be able to derive the philosophical orientation of each nation's release system by investigating the legal system, social background, and partial data. Having the results of such an investigation, this paper looks at issues related to the release system in Taiwan, including an analysis of its objective and enactment results. Therefore, this paper will address the topics previously raised, such as the release system and the results of data. In the final section, this paper will then look at the social background out of which each nation produced its parole system to analyze the efficacy of each, and then look at the issues that face the own parole system in Taiwan.

I. Release Systems—A Comparison of Legal Systems and Policies

The current study, in its discussion of the release system, will look separately at the three items, namely the requirements and procedure of review, the obligations to be fulfilled during the release period, and the legal ramifications of violating such obligations (including repeat offenses); at each stage this paper will investigate the characteristics of each country and the differences among them.

1. The requirements and process of review

When considering the early release of prisoners who have not served their full sentence, each country must consider the threshold for release and methods for determining whether or not release is appropriate. In Taiwan, regulations in the

Criminal Code of the Republic of China, the Prison Act, and the Statute of Progressive Execution of Penalty clearly state that the threshold for release may be decided by the review of the parole board. This regulation means that the prisoner may only be considered qualified by the parole board for release once obtained requested progressive treatment scores according to their status as first offenders, repeat offenders (recidivists), or offenders of specific crimes while serving sentence. Release of prisoners for parole is decided professionally on the suitability of each prisoner in accordance with the “standards for parole review cases” and the “comparison chart of principles” by the parole board of the Agency of Corrections of the Ministry of Justice. Seeing as the progressive treatment scores under the Statute of Progressive Execution of Penalty are calculated in accordance with the educational progress, employment, and moral character during imprisonment, it may be inferred that prisoners in Taiwan must serve a mandatory minimum prison term and show good behavior before being able to enter the two-level review process. For other aspects of the review process, behavior is not a crucial factor in the review decision; rather a comprehensive consideration of different circumstances including the criminal act, the criminal’s behavior, and risk of recidivism.

The review process just mentioned in the previous paragraph is closest in form to the parole system in Japan, while the conditional release systems in England and Wales are second closest. The system in Japan is, generally speaking, also a two-level system where the prisoner must first apply and be eligible for parole before being reviewed by the correctional institution and social readjustment and protection association. Where the system in Japan differs from that in Taiwan is that the threshold in Japan for parole of prisoners on life-sentences is comparatively low and does not have different eligibilities for first offenders or recidivists; also, in addition to review by the correctional institution, the review by the social readjustment and protection association is performed with respect to legally defined review procedures and decision requirements. On the other hand, in England and Wales, there is a parole board, which is similar to the one in Taiwan. However, not all parole applications are reviewed by that institution. England and Wales set down different parole requirements for prisoners receiving different sentences. In principle, prisoners receiving regular sentences do not need to go through the parole board; once the sentence has been served to the requisite custodial period, the Secretary of State may allow a conditional release. For special or serious offenders, or those with life sentences, must first go through the review by the parole board, which is done mainly in the interest of public safety. Therefore, in such system, the standards of release is clear, where undermines the authority of the parole board.

Still other systems which differ from that of Taiwan are the conditional release system of Sweden and the supervised release system of the US federal government. The conditional release system in Sweden does not include an institution such as the parole board in Taiwan. In principle, a prisoner is given a conditional release so long as that prisoner meets the legally defined threshold in sentence served and has not violated any rule during that period. Even if the prisoner's sentence is extended from committing an offense during their term, each extension may not surpass 6 months and requires a formal request for each extension. Of the systems considered in this study, Sweden's has the lowest threshold. In comparison, the system of the US federal government has a supervised release system in place of a parole system. The prisoner, in principle, is not allowed an early release. According to the decision of the court, once the sentence has been fully served, the prisoner must be kept under surveillance for a certain period after release; if there are any violations during this surveillance period, the prisoner will be released from surveillance and brought back to prison. Of the systems considered in this study, that of the US federal government is the most stringent.

2. Obligations during release

For the systems discussed in this paper, a prisoner who earns an early release or is released after serving a full sentence often has certain obligations that are stipulated in regulations. If we look at the types of obligations, we find that the policies tend to be focused on maintaining public safety or on the rehabilitation and reintegration of the prisoner back into society. In Taiwan, prisoners who are approved for release must fulfill certain obligations during the probation period. At the same time, according to Article 74-2 of the Rehabilitative Disposition Execution Act, obligations of the prisoner during the probation period include: maintaining good behavior and refraining from contact with people of poor behavior; complying with orders given by the prosecutor and the probation officer; refraining from disturbing the victim, complainant, or informer of the crime; reporting to the probation officer on physical health, living conditions, and working environment once per month; not leaving the location of probation; and other obligations designated by the probation officer. It may be seen from such obligations that the system in Taiwan is concerned primarily with keeping track of the living conditions of the prisoner after release and that it places the prisoner passively under surveillance to keep track of their reintegration status. In comparison to the systems of the other countries observed in this paper, the probation system in Taiwan is not as diverse nor as complete.

In the four countries discussed herein, the prisoner should fulfill certain obligations when granted conditional release, parole, or supervised release. Most of which are similar to the duties in Taiwan listed previously, such as good behavior,

complying with orders, reporting status, and restricted movement. Notwithstanding, each country has developed other approaches to the obligations required of released prisoners. Among these, the conditional release system in Sweden focuses more on the prisoner and his or her rehabilitation and reintroduction into society. Under this system, the surveillance of the prisoner is only permissible when it is warranted. In addition, the prisoner is required to plan how to provide compensation. Meanwhile, items such as education, training, medical treatment, employment, residence, and other assistance are provided by the institution for the prisoner to achieve reintegration into society. On the converse, the supervised release system in the US firmly focuses more on public safety. Under this system, the court decides under mandatory regulations and the needs of public safety and corrections how long the continued surveillance period outside of the correctional facility should be, after the prisoner has served a full sentence; the prisoner's obligations includes pursued investigation and confiscation of illegal items, drug tests, physical specimens, employment and compensation plans, restrictions to employment and social engagement and freedoms. It may be seen that the obligations tend to be focused on public safety, and that the surveillance passively follows the prisoner's status as they reintegrate into society.

The conditional release system in England and Wales and the parole system in Japan tend to focus on both public safety and the reintegration of the prisoner into society. The system in England and Wales, although it requires investigation and places restrictions on movement and employment, as well as restrictions to the possibility of change to the obligations based on the severity of the crimes of the prisoner, also requires prisoners with less severe crimes to participate in certain activities, provide drug tests, and undergo medical treatment. The system in Japan, in addition to requiring the prisoner to accept the investigation, provide information about their life while on release, and accept restrictions to residence and movement, the observation institution is responsible for special intervention and for assistance in medical treatment, employment, and living environment.

3. Violation of Obligations (including recidivism during release) and Legal Ramifications

The other core issues of the release system are the legal ramifications of the prisoner violating the obligations for the period of their release. Taiwan and the other countries discussed in this study have established different degrees of regulations addressing recidivism and violation of obligations. This is especially the case when violations are found that may lead to the violator having parole revoked or being brought back into prison. In the parole system in Taiwan, violation of obligations during the probation period and intentional criminal acts of the prisoners that leads to at least incarceration are differentiated: when the violations are deemed to be severe, the

revocation of parole is considered; when there are intentional criminal acts, parole is revoked according to the rules stated in criminal law. The nomothetic dimension consists a tendency to enforce the revocation of parole and order re-imprisonment for prisoners who commit criminal acts during their release; the US federal government has similar regulations that are more severe in their legal ramifications. Those who are sentenced to incarceration for a year or more will have their supervised release revoked and be ordered back to prison on the decision of the court; also the court needs to decide the sentencing for both the violation of the supervised release and the criminal acts.

The laws and regulations of Japan, England and Wales, and Sweden do not mandate parole revocation and reincarceration for violators of the obligations of release. Nevertheless, there are still levels of varying severity for the legal ramifications of such violations. In Japan, the social readjustment and protection association is the final review institution for the review of violators of these obligations. The institution decides whether to revoke parole. In England and Wales, the Secretary of State decides whether or not to revoke conditional release. Still there are cases of cancellation of revocation defined, when such a case happens, an increased threshold for application and review conditions for subsequent conditional release will be imposed to certain prisoner. Only if there are violations of the supervision requirements relating highly to rehabilitation and reintegration into society, revocation of parole will not be a primary legal ramification. In Sweden, there is a tendency to revoke conditional release as the last necessary course of action. If there is violation of obligations not related to recidivism, then the violator will only be given a warning, be subject to supervision, or have a suspension of the release for 15 days. If there are violations related to recidivism, then, if the court decides that revocation of release is not appropriate, there will be further considerations for warnings, surveillance, or extension of the probation period.

II. Interpretation and Analysis of the Data

After performing an analysis of the release systems in each of the countries presently under discussion, it is necessary to observe the current results of the enactment of these systems. Only then is it possible to analyze in a complete fashion the effectiveness and problems of each system. To that end, although the data is restricted by the initial compilation methods of data by governmental bodies of Taiwan and the countries under present discussion as well as the restrictions to publication of such data, and it thus being rather difficult to engage in a deeper analysis of the efficacy of each system. Nevertheless, we may see possible problems arising from the enactment of such parole systems and the selection of policy. This includes, especially, the differences after standardization or institutionalization of release systems, and situations resulting from an imbalance when trying to maintain public safety while also

assisting the prisoner in rehabilitation and reintegration into society.

1. Differences in efficacy after standardization or institutionalization of release systems

In the data represented in this study, one of the more marked observations is the connection between the release system and the average enforcement rate of imprisonment. At the very beginning of the data analysis for Taiwan, it was noted that if any of the following conditions were true of the prisoner, that prisoner had a higher probability of being approved for parole when the enforcement rate of imprisonment was relatively low; those conditions are: if the prisoner was below the age of 25 or above the age of 65, was female, was sent to a prison camp, did not have any further violations, had an exemplary record, or did not have a record of revocation of parole. Furthermore, except for having an exemplary record (which was rather non-significant), the probabilities of prisoners with the other conditions having their parole revoked were rather low. On this point, if we observe the relevant data, we may infer that there is a practical rise in the annual rate of approval for parole. This may be due to the review being made in accordance with the ability of the person to commit crime (age or sex), opportunities for contact with society or families (prison camps), behavior during imprisonment (violations or exemplary records), and the likelihood of recidivism (parole revocation record). Comparison of these results with the review standards promulgated by the Ministry of Justice shows that the meticulousness and enactment strategy of Taiwan has attained the objective of recent policies. However, if the average enforcement rate of imprisonment is included in the comparison, it will be seen that even if the government tries to standardize the review requirements for parole and raise the approval rate, the average enforcement rate of imprisonment would have still been higher than the $\frac{1}{2}$ of the legally determined imprisonment period for first offenders and close to the $\frac{2}{3}$ of that for recidivists. What should be considered is this: having requests to review parole cases from multiple angles with the limits on manpower, along with the influence of amendments mandating severe punishment as a deterrent to crime, may limit the ability and freedom for the reviewers' evaluation of the risk of recidivism and ability to return to society with respect to prisoners who have committed lesser or severe crimes.

Moreover, it may be seen from the data of the countries discussed herein that the standardization or institutionalization of the release system could highly influence prison policies that focus on the average enforcement rate of imprisonment of each country in question. On this point, we may look to England and Wales, Sweden, and Japan as examples. First, the institutionalized conditional release results as the enactment method in England/Wales and Sweden. This means that many of the incarceration categories are given clear release thresholds in regulations. Whereas, in

Taiwan, the parole board can only begin the parole review after the prisoner is qualified to apply for parole. If we look at the enforcement data in these two countries, we see a large, steady discord between the parole application eligibility requirements. Sweden, for one, legally requires that prisoners serve 2/3 of their prison sentence before being eligible for conditional release, regardless of the number of offenses and the sentencing type. For that reason, it is rather difficult to find data or statistics that are focused on review of conditional release on the official website and in the academic data. Although England and Wales do indeed have a parole board that is responsible for review, the actual power of the board is severely limited in the relevant regulations. For that reason, the data on the enforcement of the prison term shows that term types have recently leveled off and approached the results of the parole threshold. It may also be due to the limitations to the power of the boards when reviewing prisoners for early parole in cases of special crimes or series crimes. This leads to a drop in the uncertainty of the public safety considerations. It also leads to a concentration of resources on the evaluation of recidivism for prisoners who have committed serious crimes.

However, on the other hand, the system in Japan functions with the correctional facilities and the local social readjustment and protection associations to evaluate whether a prisoner meets the application requirements for early release. Regulations explicate the formation of the association, the review process, and the requirements for consideration. However, a closer look at the data shows that the average enforcement rate of imprisonment in Japan is far higher recent years than the threshold for release ;thus, the release approval rate from the local social readjustment and protection associations also tends to be rather high. This paradoxical tendency for high approval rates and enforcement rates may be due to the initial stage of the social readjustment and protection association—the procedural problems in correctional facilities in approving the application of prisoners for release. In light of the fact that the procedures for review in correctional facilities are not explicated in Japanese law, and after looking at the data, it may be seen that the average enforcement rate of imprisonment from the greatly extended period of approval for release and approval in correctional facilities are highly related. It may be inferred that the release application system in the unclear standards for review in correctional facilities in Japan and the high reliance on human resources in correctional facilities for initial selection of release applications lowers the efficacy of release enforcement and the enforcement rate.

On that point, the threshold for early release and whether or not to standardize the early release of prisoners highly influences the parole systems and whether the enactment efficacy fits with the actual time of release for the prisoner. Looking again at Taiwan, we see that the parole board adheres to the standards for approval as given

by the Ministry of Justice for multiple aspects; however, in past data, it remains impossible to effectively bring the enforcement rate of imprisonment for offenders with different numbers of offenses in line with the legal threshold. Nor has it been possible to effectively differentiate between the rates of approval for release for first offenders and repeat offenders. The reason for this may be related to the limited number of personnel at the prisoner review boards in correctional facilities. It is thus difficult to process the large number of parole applications. In 2015, it became mandatory to follow the standards promulgated by the Ministry of Justice. Research has partially revealed that, possibly due to these standards not being easily applied and that there are no precedents to follow, the members of the boards still consider the risk of recidivism as the principle. Therefore, after comparing the situation with that in other countries, we believe that for the parole review system in Taiwan, careful consideration ought to be given to providing standardized regulations and focusing the duties and resources of the prisoner review board to cases that have rather high risk of recidivism.

2. An analysis of the efficacy of the balance between maintaining public safety and assisting the prisoner in reintegration to society

Another aspect to analyze data is the enactment results from either fulfilling or violating the relevant parole obligations during the period of release, especially situations where parole is revoked and the prisoner is returned to the correctional facility due to violation of obligations (including repeat offenses during the parole period). Such data is even more able to show the ability of Taiwan and each country studied in reforming prisoners. Nonetheless, while the data in Taiwan show each variable of the rate of parole revocation, the data is not from one single year or one single population but has been compiled over many years. The rate of revocation for each year is strongly influenced by recidivism of the released population during the residual sentence. Therefore, it is very difficult to derive concrete results from the current parole system in Taiwan. In light of the close relationship between the annual data on follow-up of parole revocation and parole system efficacy, we will analyze the data from foreign systems, before observing the differences in efficacy for different policies.

Firstly, we will look at a system that tends to focus on public safety: the supervised release system of the US federal government. In recent data on that system, those who have had their supervised release revoked account for about 1/3 of the entire supervised release population, and that tendency appears not to be on the decline. Therefore, the efficacy of this policy may have reached a limit. However, the problem is this: the first reason for prisoners who have had their supervised release revoked is a violation of obligations for parole; that is followed by serious and petty offense; the proportion

arising from recidivism is lower than the recidivism rates in England/Wales and Sweden. This leads to a dispute: are parole policies that stress public safety able to achieve lower rates of recidivism? In response to that question, the present paper believes that there are some reservations. One of the reasons may be that the policy in the US federal government does not easily allow for the early release of prisoners, prisoners (especially those serving long sentences) may be more likely to not have repeat offenses after being released due to their relatively higher age on release. In addition, the data from the US federal government is calculated for violations and sentencing within one year, thus it may not include the data for recidivism in that year; however, those who have not been sentenced are in the calculations; or it may be categorized as violations of obligations and not as repeat offenses. If that is the case, we believe that there is no way to directly connect supervised release to the low rate of recidivism. Nevertheless, in light of the halved rate of revocation of supervised release, it may be from violations of obligations that do not entail repeat offenses. This represents that the many prisoners still acclimating to society, possibly due to violation of supervision items not entailing criminal acts, are required to have their release revoked and are returned to prison. This system, which places so much stress on public safety, leads to rises in the incarceration rate and correctional problems, as well as predicaments in the intervention of prisoners outside of institutions. All of these issues ought to be considered. To address this: it may be possible to make a comparison with Japan. The data shows that the prison return rates within five years of release of those prisoners who are released after a full term and those who are released on parole are rather low. The former is not only several times higher than the latter, the two are rather high in the first year, and relatively high in the second year. From this it may be asked: do parole systems oriented to the maintenance of public safety tend to overly restrict the rehabilitation opportunities of prisoners? And do they lead to a long-term dampening of recidivism?

In reality, to continue to investigate the policies that mitigate recidivism over the long term, in addition to the focus on maintenance of public safety in parole policies, it is especially pertinent to strengthen the mechanisms for prisoner rehabilitation, including the standards for rehabilitation in correctional facilities and early release for avoiding the dangers resulting from institutional intervention (for example, excessive and real social exclusion), and assistance for living resources after release. Sweden and England/Wales may serve as examples. The rehabilitation mechanisms for prisoners under conditional release in Sweden are more diverse and abundant than those in England/Wales, and the recidivism rate after conditional release for the first three years, drops considerably in the second and third year, after an increase for the first year. This may be considered as a result of the presence of active rehabilitation mechanisms. Nevertheless, the question herein is the recidivism rate in Sweden after the first year of

conditional release is halved. However, it may be pertinent here to address conditional release in England and Wales to help in the discussion. Comparing the two systems, the threshold for conditional release in Sweden ($\frac{2}{3}$ of the full sentence) is much higher than that in much of England and Wales ($\frac{1}{2}$ of the full sentence). Therefore, in Sweden, the prisoner is subject to a longer period of institutional intervention. Furthermore, although the legally defined rehabilitation mechanisms are relatively diverse in Sweden, England and Wales cannot thusly be disregarded. In fact, after the prisoner is released, the probation institution is authorized to set up or plan extra rehabilitation intervention items. Therefore, it is not possible to determine that England and Wales are necessarily inferior to Sweden in this aspect. From the above we may infer that the high recidivism rate after the first year of release in Sweden may be due to the inability of the prisoner to acclimate to society after a long period of incarceration, which makes it more likely for the prisoner to commit further crimes.

It may be apparent from this discussion that systems which focus on public safety may run counter to the intention of rehabilitation interventions run by correctional facilities or communities; those systems, such as the supervised release system of the US federal government, may also lead to lower rates of recidivism for the long term after release, though they also lack relevant evidence for this from research. In comparison, those systems which focus on the rehabilitation and reintegration of the prisoner, including prisoners released early though under supervision, or those that offer rehabilitation assistance to prisoners inside of correctional facilities or after release, tend to show instability in recidivism for the first year after release, though there are large drop offs in recidivism for each year thereafter; these systems tend to help the prisoner to reintegrate into society and live a normal life easier. Therefore, addressing the systems and social backgrounds of each country, and based on the fact that there is a tendency for more severe punishment as a deterrent to crime, it is still rather difficult to avoid situations where public safety affects release systems. However, in the evolution of these systems, malpractice resulting from the correctional facilities reducing the difficulties of the prisoner in reintegrating into society should still be considered so as to ensure smooth reintegration. Therefore, an active rehabilitation mechanism that accompanies the release system is an important part of the system as a whole. On that point, we may look again at the system in Taiwan: in the standards promulgated by the Ministry of Justice there are items which quicken the release application process for prisoners with shorter sentences. This has possibly led to the fact that prisoners with longer sentences find it more difficult to apply for early release than prisoners with shorter terms. However, with the uncertainties in the follow-up data during the release period, it is not necessarily true that prisoners serving longer sentences are more likely to commit repeat offenses after release. Based on that fact, it

has been hard for prisoners serving longer sentences to be released on parole due to the “presumption” of having higher rates of recidivism. We believe that when prisoners serving shorter sentences are released on parole, lacking active mechanisms for rehabilitation, it is not possible to directly determine the recidivist status of such prisoners; rather, there is a highly causal relationship between that and the parole system that provides for early release of prisoners. We may say, on that point, that it is crucial to establish follow-up data on the system in Taiwan; however, on the other hand, the parole system is merely one part of the entire release mechanism. Although it is possible to improve the parole system by using follow-up data on recidivism and evaluation of likelihood of recidivism, it has been shown through the data in this paper that recidivism may originate from the level of rehabilitation assistance from the correctional facility or the community. If such rehabilitation mechanisms are not comprehensive and only the parole system is improved, then there will be marked limits to the efficacy of preventing recidivism.

III. Selection of release policy in Taiwan and other countries, in societies where severe punishments are delivered to deter crime

Finally, one more point worthy of noting here is that although there are markedly different release systems in Taiwan and the other countries studied in the present paper, the evolution of the systems in other countries comes from similar social backgrounds and have been influenced by the line of thought that policies ought to encourage severe punishment. The tendency for severe punishment began in the middle of the 20th century. In societies of risk where there was potential for danger or criminal factors, their populaces began to have feelings of insecurity. In such societies where there is an inability to control uncertain factors in the environment, it becomes apparent that the populace will want certainty and maintenance of public safety. One method of satisfying that want is to implement more severe controls over criminals. In such a situation, the conditional release system in England and Wales is now facing a new atmosphere of “Tough on Crime” and investigating issues related to prevention of recidivism after conditional release. As for the US federal government, they are facing a situation where the population supports more severe types of punishment and is questioning the lack of clarity and its violation of legal stability. This has led to the creation of a supervised release system in place of parole. In Sweden, calls for more severe punishment and media awareness of crime have led to changes in the release system. In Japan, there have been cases of recidivism after parole or reduced sentences, which has led to public demand for reform of the rehabilitation protection system. Overall, one may find that although each of the countries listed above has its own unique social background, in modern society, where it is rather easy for the government

and the public to hear about criminal acts, there has been a desire for maintenance of public safety.

With respect to such desires, the governments of each of these countries have developed different release systems. However, such developments can be explained as arising from government response to public demand for creating policy for the maintenance of public safety. Among these countries, there are systems that have evolved in line with public concerns for public safety that have a corresponding lack of attention to rehabilitation mechanisms, such as in the US federal government where there has been the creation of a supervised release system in place of parole. There are systems that enhance the surveillance mechanisms for public safety while also improving plans for prisoner rehabilitation, such as those in England and Wales, where there is a raising of the threshold and strengthening of review procedures for release of prisoners for severe crimes, and a clarification of release on license requirements and increases to the regulations for rehabilitation of prisoners with shorter terms. The system in Japan has evolved to have a rather high rate of enforcement of imprisonment and a restructuring of the rehabilitation and protection system for prisoners. In addition to this, there are policies or legal institutions drafted that are oriented toward public safety. Overall, there are still those actively pursue the rehabilitation and reintegration of the prisoner, such as the system in Sweden, which has raised the threshold for conditional release and has not altered the active rehabilitation mechanisms in correctional facilities; Sweden also considers the revocation of release as a last resort strategy.

In response to the policy changes resulting from social tendencies toward more severe punishment, the countries discussed above are unable to directly evaluate the relative merits and disadvantages. However, on this point, we can show one piece of information: even though we are now facing a situation where there is an awareness of criminal problems, where there are demands from the populace or the government for more strict punishment for criminals, such trends do not mean that criminal policies will, necessarily and in large part, tend toward stricter criminal punishment in release systems. In other words, the governments have attended to both the policies themselves and the observations of the public. This means the performance of the dual objective: rehabilitation and reintegration of the prisoner to society and response to public concerns for public safety. That being the case, in Taiwan there is a tendency toward raising the threshold for release in response to concerns of public safety. There ought to be more attention in Taiwan given to its parole system, in which there are extended sentences coupled with uncertainties as to when parole will be possible. This situation has a negative effect on the willingness of prisoners to engage in rehabilitation. If we

survey all of the systems of the countries discussed herein, with standardization of release policies, restricting the power to consider release, and a focus of power on special crimes, or actively helps the prisoner reintegrate into society rather than surveillance passively, and find that these systems have the relevant data to show that recidivism has dropped, then we should consider reducing institutionalized treatment while actively help rehabilitate to lowers the chance of recidivism after release. The public's concern for public safety ought also to be given proper attention. However, while the country responds to the public demand for more severe punishment, and especially in controlling social resources, it should consider a deeply entrenched public safety mechanism. Prisoners, during incarceration, should be given a clear date for release and objectives for live after release; this would lead to prisoners being motivated for reform.

IV. Conclusions and Recommendations

This present paper has taken the developmental concepts, policy directions, and results of enactment of the parole system in Taiwan as the core of its investigation. And, through a comparison with four countries—the UK, the US, Sweden, and Japan, it has identified parole related problems and possible solutions in the Taiwanese system. In the following, there will be a summary of the results of research and, from such a summary, suggestions for further research.

1. Results of research

- a) The results of the strategy and direction of the release system in Taiwan largely fit with recent political objectives

First, this paper gathered data beginning in 2008. This is within the period after 2005, when Article 77 of the Criminal Code of the Republic of China, which stipulated the threshold for parole applications, was amended to raise. Therefore, the data taken from this period can examine the enactment results of the amended law that called for more severe punishments. In the many pieces of data and analyses in this paper, it may be seen that the past average enforcement rate was overall higher than the $\frac{1}{2}$ threshold of the legally defined incarceration term for first offenses and approached the $\frac{2}{3}$ threshold of the incarceration period for repeat offenders. However, in practice, if the prisoner was below the age of 25 or above the age of 65, was female, was sent to a prison camp, did not have any further violations, had an exemplary record, or did not have a record of revocation of parole, then such prisoners would have a far greater chance of being approved for release when there is a relatively low imprisonment enforcement rate. Furthermore, with the exception of having an reward records (which was rather non-significant), the probabilities of prisoners with the other conditions

having their parole revoked were rather low. Noting this, if we look at the data, we may infer that there is a practical rise in the annual rate of approval for parole. This may be due to the review results made in accordance with the ability of the person to commit crime (age or sex), opportunities for contact with society or families (prison camps), behavior during imprisonment (violations or exemplary records), and the likelihood of recidivism (parole revocation record). Such results may verify that the meticulousness of the parole policy in Taiwan is not deficient to that in the other countries and that the enactment of the strategy has attained policy objectives.

- b) However, there is an excessive tendency towards maintaining public safety, which does not markedly help to lower the recidivism rate

In Taiwan, from an overall observation of the development tendency arising from amendments to law, regardless of whether we speak of the systems themselves or the results of their enactment, they all stress the evidence of repentance of the prisoner and appropriately reducing the sentence. Gradually, there has been a tendency toward maintaining public safety and a corresponding raising of the threshold for release, as well as a stricter set of review standards. This may be a problem to be considered by the government and legislative units. The basic objective of the parole system should be, after all, to reduce the social exclusion resulting from institutional intervention on prisoners who have already repented and reduce the problems that prevent smooth reintegration into society; or there should be an evolution towards more institutional interventions for the maintenance of public safety. In the present situation, the result of several amendments reflected in the data is that there is a tendency towards maintaining public safety and a restriction of the possibility for prisoners to reintegrate into society. In fact, this has led to a decrease in the hope of prisoners to return to society as well as incarceration management problems. Therefore, with more strict legislative standards, the legal departments are only able to respond to real needs within a limited degree of freedom to progressively raise the rate of approval for parole. However, it is apparent that the enforcement rate will not drop due to this. If we look at the standards of review in parole review cases from the standpoint of recent parole related policy, we also become aware of the reason for the increasing review approval rate in Taiwan, which is a result of lenient approvals for prisoners serving shorter sentences. As a result, it may then be hypothesized that the recidivism rate or malignancy of future crimes of prisoners with presumed lighter sentences may be lesser than those of prisoners with more serious sentences. However, it is feared that such a situation may lead to risk of recidivism resulting from a lack of rehabilitation mechanisms in the environment after the release of prisoners with lighter sentences. It may also then lead to a loss of hope and a passive participation in interventional events in the corrective facility for

prisoners with serious crimes who are willing to undergo rehabilitation but are in an institution where it is difficult to have social reintegration mechanisms and where there are higher thresholds and stricter procedures for parole review.

After analysis of foreign legal systems in the present paper, it has been found that maintaining public safety is of course important; however, if the rehabilitation and reintegration of the prisoner into society are ignored, it is not necessarily the case that the intended objective, the protection of society, will indeed be reached. In Sweden, notwithstanding influence from tendencies that push for more severe treatment of criminals and a corresponding raising of the threshold for conditional release, there are still standards in place that give attention to the return of the prisoner to society. This has led to a marked decrease in recidivism after the first year of release in Sweden. In the supervised release system of the US federal government, the prisoner is locked up “nice and tight” with an additional supervision system in place for the maintenance of public safety. Not only is the incarceration rate in the US higher than that in any other country, but the crime rate is not decreasing. The revocation rate of supervised release has also stayed at a very high level. It may be seen that prison policies, especially the parole system, should find a balance between assisting the prisoner in their reintegration into society and the maintenance of public safety, rather than focusing solely one to the detriment of the other.

2. Recommendations for research

- a) Find a balance between assisting the prisoner in their reintegration into society and the maintenance of public safety

To summarize results from Taiwan and other countries as well as the background and data, we believe that the central issues related to the parole system in Taiwan are in finding a balance between assisting the prisoner in their reintegration into society and the maintenance of public safety without any undue bias towards any one of the two. For the maintenance of public safety, along with the tendency to deal more severe punishment while also maintaining the objective to rehabilitate and reintegrate the prisoner, Taiwan ought to enhance the social intervention plans for the prisoner. This includes plans before release to properly prepare for the smooth reintegration of the prisoner to society, and after the release to provide assistance in life, work, and other aspects of the prisoner’s life. Some detailed examples are provided below:

- i. Suggest bolstering follow-up data of post-release recidivism to address different criminal types and risk of recidivism and provide appropriate release measures

To better apply the parole review procedure in Taiwan and allow that system to actually address both issues, the prisoner's reintegration into society and the maintenance of public safety, it is recommended that more data is gathered, and more research is done on the types of crimes that have higher rates of associated recidivism. It is hoped that, with long-term follow-ups and relevant evidence, relevant policies may be implemented. The correctional institution could perhaps look to the data on the countries discussed in this paper, such as Sweden and Japan, to create a strategy. A follow-up analysis could be performed on a yearly basis for several years after the prisoner is released to assess whether there was a repeat offense. Such a method would help to determine the efficacy of the parole system in Taiwan.

- ii. To bring the actual results of the parole system closer to the legal threshold for release, and provide the prisoner with motivation for self-rehabilitation, it is suggested that the current regulations be reviewed and the parole review mechanism standardized through regulations

This "standardization" would include institutionalization of the requirements for review or some other method of ensuring that substantive considerations could be followed during the review process. The Ministry of Justice has promulgated administrative regulations related to parole review, nevertheless, whether or not the requirements listed on the comparison chart of the principles for parole review are incorporated in the comprehensive review and each step in the review process, including the precision and reasonableness of the prison's parole board and the Agency of Corrections of the Ministry of Justice, all of which could easily lead to doubts, if it affects the freedom of the prisoner, it would then entail a constitutional right. If the law is not taken for specific standards, then only regulations established by the administrative organs would be targets of compliance. The preceding needs to be fully considered.

It is suggested in this paper that, from the legal standpoint, we ought to reassess the practical identification and operational difficulties arising from the "evidence of repentance" part of Paragraph 1, Article 77 of the Criminal Code of the Republic of China as well as the regulations for recidivists. This leads to several practical problems in expending effort in the sentencing and calculation of the parole threshold. This, in turn, leads to problems for the rehabilitation of the prisoner. Similarly, for the issues now faced, the situation in England may be referenced. A portion of prisoners may be legally categorized: once prisoners reach a certain threshold and have taken on certain

obligations, they may be released; at the same time, while maintaining public safety ought also to be addressed, the careful review of parole may reference Japan: the personnel, procedure, and items of consideration of the prisoner review board and Agency of Corrections, Ministry of Justice can be clearly defined in the relevant laws. This may help to ameliorate the current impasse in corrections and education, where prisoners with severe crimes may be unable for long periods of time to have parole, due to legal and policy-related judgements that severe crimes entail higher risks and a general lack of good predictors for recidivism.

- b) The parole system is only one part of the release system and has limited influence over prevention of recidivism; there ought to be partial improvements in the rehabilitation mechanisms

In analyzing the efficacy of the release system in Taiwan and the conditional release systems in other countries, we have reached the conclusion that a balance between reintegration into society and the maintenance of public safety is the objective that ought to be focused on. Nevertheless, on the other side of the issue, the parole system's operation is a reality of the prisoner's own repentance and the post-release rehabilitation pathway offered by society; thereby the suitability of release is considered. As for improving prisoner rehabilitation and addressing the lack of both human and non-human resources for rehabilitation: while this is differentiated from issues of the review process for parole, still, it does significantly relate to the efficacy of the system with respect to preventing recidivism. On that point, after comparing Sweden and the effect of its rehabilitation system pre- and post-release, with Japan and its surveillance and rehabilitation post-release, this issue becomes even more marked. We believe that, for Taiwan, only when continual improvements are made to the efficacy of the rehabilitation plan can the ever more tilted and unconscious bias toward public safety in the review process be stopped and limits to its efficacy be broken. Similarly, the limits of the parole system with respect to the prisoner's repentance and the objective of rehabilitation require more social reintegration work from relevant sectors of society. Only when there is integration across governmental departments will efficacy be raised.

3. Conclusion

The purpose in the present paper was to observe, with proper attention to context, the parole system and its enactment in Taiwan, as well as its effects and related problems. We compared the parole policies of Taiwan with those of other countries, and from such comparisons we found legal and policy-related directions for the evaluation of parole related problems in Taiwan. This paper looked at the regulations and data associated with parole policies for serving of prison terms, approval of release, and

revocation of parole. It also incorporated recent interpretations and developmental directions of the Ministry of Justice with respect to parole policy. The subjects for analysis were Taiwan and four other countries—the UK, the US, Sweden, and Japan, each having different cultures and religions, and each having a unique parole system and intellectual background. What we have found is that in a society where punishment is becoming more severe, there is a tendency to take public safety as the central consideration in the parole review process. Comparatively speaking, this is a gradual loosening of the assistance for prisoner rehabilitation and reintegration into society, a model which may lead to something like the high level of imprisonment and recidivism in the supervised release system of the US federal government. In addition, while the Ministry of Justice has issued administrative rules for the matters which are to be deliberated in parole review, in practical fact, it remains an item of consideration as to how to protect the constitutional rights of the prisoners through legal means; also, how to allow society to be privy as to the justice of the parole boards at correctional facilities and the Agency of Corrections, Ministry of Justice. In the future, it will be important to use long-term follow up survey studies to elucidate the effectiveness of parole and defend the principle of assisting in the rehabilitation and reintegration of prisoners into society. Through the implementation of rehabilitation mechanisms such as comprehensive social intervention plans, recidivism rates may be lessened. Such considerations should be entered into the formulation of parole-related policies.