

“Doing Good” for the Parolees: Some Evidence from Malaysia on the Predicament in Community Rehabilitation

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ABSTRACT

The main objective of a parole system is to rehabilitate and reintegrate parolees into society. In Malaysia, lack of such community rehabilitation programmes in addition to problems faced by parole officers are a concern. This paper examines the legal and operational predicament faced by the community officers. This paper adopts a qualitative methodology, and data is obtained from five case studies of regional prisons in Malaysia as well as from the Prison Act 1995 and library-based sources. Findings show that rehabilitating parolees is demanding on the parole officers especially so when the rehabilitation purpose and specific duties of such officers are not covered by the Prison Act 1995. Additionally, operational difficulties such as lack of sharing of information on the parolees' rehabilitation assessment and report from the prisons, the officers' lack of expertise and heavy workloads hamper their work.

Keywords: Challenges, community rehabilitation, parole, parole officers, parolees

INTRODUCTION

The rehabilitation of parolees involves transforming a parolee's behaviour under

specific intervention programmes aimed at successfully reintegrating them into the community. The community parole officers who are the rehabilitating agents may encounter many challenges in ensuring smooth rehabilitation of the parolee. This paper will focus on legal and operational predicament facing such officers in their parole supervision duties. The first part of the article examines the legal position

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of the parole system and rehabilitation as provided under the Prison Act 1995. The second part reviews literature on community rehabilitation of parolees and its challenges while the third part explains the methodology of this research. The fourth part, which is the crux of this paper, highlights main findings, the processes involved and discusses the success of the prison rehabilitation programmes. It suggests that the problems for the said officers stem not only from their lack of expertise and heavy workloads but also from lack of specific provisions in the 1995 Act relating to their rehabilitation duties. The final part summarises and concludes the paper.

THE LEGAL POSITION ON PAROLE RELEASE

What is Parole?

The parole system in Malaysia was introduced in 2007 via the amendment of the Prison Act 1995. It was enforced on 30th June 2008. In July 2008, the pioneer batch of 64 parolees was released under the system (Malaysian Prison Department, 2008). The parole system is also an alternative mode of sentencing and a non-custodial measure taken by Malaysia as a member state party to the United Nations Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules, Rule 2.1).

Section 46A of the Prison Act 1995 defines “parole” as the release of a convicted offender to serve any part of his incarceration sentence outside the prison, under a parole order. A “parolees” means parolees who are

released on a parole order made by a Parole Board. Section 46I provides that;

a parolee is deemed to continue serving his sentence of imprisonment during the period of parole that begins on the date of release on parole as specified in the parole order and ends upon the expiration of his sentence of imprisonment taking into account so much of his conviction as shall remain after deducting from it such part of remission of sentence granted, or when the parole order is suspended or revoked.

Thus, the parole system in Malaysia is as an extension of the custodial period, as the parolees will be placed in the community under the correctional authority and supervision of parole officers (Hamin & Hassan, 2012).

Eligibility of Parole Release

Once the parolees have served at least half of his/her term of incarceration, without taking into account the remission of sentence granted to him, he is deemed to be considered eligible for parole. Such is the case provided that his offence does not fall under any of the offences prescribed in the Fourth Schedule of the 1995 Act (Section 46E, Prison Act 1995). Such crimes in this schedule include murder, rape, incest and offences related to kidnapping and possession of firearms. In deciding whether or not to release convicted offenders on parole, the

1995 Act stipulates that the Parole Board as the releasing authority must examine and evaluate the parole dossiers received from institutional parole officer and any other report prepared by any prison officer (Section 46E, Prison Act 1995). Section 46F on the other hand provides that in releasing the parolees, the Parole Board is under an obligation to protect public safety and at the same time, to maintain public confidence in the administration of justice. In this regard, the nature and circumstances of the offence that are related to the parolee's sentence and the latter's criminal records must be taken into account (Section 46F, Prison Act 1995). The 1995 Act highlights the significance of assessing the rehabilitation of the parolees while in prison (Section 46F, Prison Act 1995). This includes assessing the risk of the parolee's re-offending if he or she is released on parole and likelihood of adaptation to normal community life (Section 46F, Prison Act 1995).

Rehabilitation under the Prison Act 1995

The legislative intention of introducing the parole system was not only to alleviate prison overcrowding and cutting down on operating costs but also to reduce recidivism and rehabilitate the parolees. These will ensure successful re-entry and reintegration of the parolee into society through the role of family, employers or community members (Parliamentary Hansard No 85, 19 December, 2007). According to the mission statement of the Parole Division of the Malaysian Prison Department, the

objectives of the parole system are to ensure a continuity of effective rehabilitation programmes and to give the parolees a second chance to go through the process of reintegration of their lives into the community (Malaysian Prison Department, 2008). They are also to ensure the welfare of society and to reduce recidivism by assisting and guiding the parolees to live as normal individuals who respect the law and regulations of the country. (Malaysian Prison Department, 2008).

The Malaysian parole system adopts a combined model of rehabilitation and surveillance in its approach to parole supervision (Malaysian Prison Department, 2008). Hence, the legislative context for the rehabilitation programs in Malaysia is evidenced from the provisions of section 46J and 46K of the Prison Act 1995, in which the roles of the parole officers are integrated into the rehabilitation and the surveillance of the parolees. The rehabilitation of parolees is delivered in both the custodial settings in the prison and in the community. In this respect, the focus of the Malaysian Prison Department is to rehabilitate the parolees by developing positive attitudes among them and assist in their re-integration into the society. Such rehabilitation is done through the Prison Human Development Programme, which contains four distinct phases namely, discipline development, personality enhancement, skills/trade development and pre-release program (Malaysian Prison Department, 2014). The role of the community parole officers includes managing the intervention case plan

and programmes to help the parolees and co-operating with other government agencies and the non-governmental organisations to facilitate their rehabilitation (Malaysian Prison Department, 2008).

LITERATURE REVIEW ON COMMUNITY REHABILITATION

There are many definitions of parolees' rehabilitation in the literature. Rotman (1990) defines that rehabilitation involves providing minimum services necessary for the parolees to 'reintegrate into society as a valuable human being'. Similarly, Maruna and Lebel (2002) indicate that rehabilitation is a process whereby the parolees are afforded the opportunity to harness their strengths to make a positive contribution to the community, thereby making amends for their wrongdoing and earning their redemption. Lewis (2005) views rehabilitation as restoring the parolees' relationship with society (Lewis, 2005). McGee (1969) argues that the classic collateral theme in rehabilitation has "done good" for the parolees.

Studies show that rehabilitation revolves around changing the parolees' acts or behaviours through intervention programmes that help them to reintegrate successfully into the community. For instance, Raynor (2004) argues that rehabilitation targets changes to the parolees' attitude, personality, skills, employment and social relationship. Mackenzie (2000) further reflects that rehabilitation strategies should focus on changing the individual parolees so that he or she will not continue with criminal

activities. In the same vein, Crow (2001) defines rehabilitation as the practical steps necessary to achieve social integration and in particular, the provision of interventions or programmes focusing on helping the parolees to gain access to accommodation, education, training and employment.

Literature also suggests the significance of establishing a clear policy and legislative frameworks on the rehabilitation goals. For instance, Raphael and Stoll (2014) believes that the parole agency's objectives and policies could make a huge difference in the rehabilitation of the parolees and hence, ensure public safety. They added that without a clear direction, a parole agency may adopt tools that are incongruent with their jurisdiction's values, philosophy, or capacity. Vision, goals, and internal support will form the framework for the system, and transparent policy will explain how it is to be implemented (Carter, 2012). Along similar lines, Solomon et al. (2008) assert the importance of the parole agency leadership in defining its mission and objectives, the criteria for success and setting the benchmarks for its performance before engaging with the procedures and the instruments in implementing the parole policy. Also, Petersilia (2000) contends that the lack of adequate legislative framework will lead to complications in the rehabilitation and surveillance duties of the community parole officers.

Literature also indicates the necessity of developing a case plan for the parolees as an immediate task of the community parole officers in their parole supervision. Such

plan would assist them in identifying needs of the parolees, risks the latter posed to the community and problems the parolees might encounter. Mc Garry et al. (2013) contend that one of the primary tasks in community rehabilitation is to develop a continuum case plan approach. Ball, Weisberg and Dansky, (2008) observe that it is crucial that the parolees be assessed within the first 72 hours of their release to identify their needs and problems in the community. Burke (2011) asserts that such case plan could be used to chart the parolees' progress, identify the gaps in reducing the parolees' risk in the community and meeting their needs outside the prison wall. Similarly, Osher, D'Amora, Plotkin, Jarrett, and Eggleston (2012) contend that the case plan would be useful for the parole officers to deal with parolees who have drug issues and a history of mental illness. Travis (2005) opines that preparation for the case plan would lead to further collaboration and coordination with the prison and other law enforcement agencies and community-based organisations. With such strategic partnership, the parole community officers could eventually establish good working relationships and communication with such institutions.

The importance of proper assessments that are based on scientific tools has also been documented in the literature. For example, Miller and Maloney (2013) assert that the parole officers could focus and implement a suitable supervision case plan using such tools as well as setting expectations and intervention programmes to reduce the

risks of parolees' re-offending while under supervision. Thus, this increases the chances that the parolees will be matched with the rehabilitation treatment and services and appropriate intervention programmes that will reduce the risk of recidivism (Andrews, Bonta, & Wormith, 2006).

Literature review shows there are manifold the benefits if community parole officers are experienced and knowledgeable in dealing with the prisoners. In this regard, Rockett (2006) stresses that it is crucial for the community parole officers to have the necessary knowledge and skills to guide, coordinate and provide for personal development and treatment programmes to rehabilitate and reintegrate parolees into the society. Accordingly, Bourgon, Hanson and Bonta (2008) contend that it is also imperative that the community parole officers have the expertise in translating the application of scientific evidence-based principles into everyday rehabilitation practices.

The challenges in the supervision process, in particular, on rehabilitating the parolees in the community, are well documented. In this context, Mc Garry et al. (2013) affirm that it is a challenge to prepare an appropriate case plan for the parolees, with an appropriate intervention programme that could be delivered by an adequately trained staff. Also, parole officers might find it difficult in understanding the characteristics and the needs of each parolee. This drawback leads to the predicament in planning an appropriate rehabilitation and intervention programme (Gunnison &

Helfgott, 2011). Also, Astbury (2008) argues that each of the parolees exhibits a unique profile, and these characteristics have an influence on the intervention programmes. As such, it is problematic for the community parole officers to examine whether or not the intended rehabilitation programmes could be successfully linked to the risk, need and responsiveness of the parolees (Ward, Melser, & Yates, 2007).

The fact that the community parole officers continually face difficulties in managing their caseloads is also well documented. In this regard, Quinn and Gould (2003) show that with heavy workloads, such officers have limited time to focus on the individual parolees and to provide them with individualised rehabilitation treatment. Within the time constraint, such officers are often required to engage in surveillance-based supervision approach. Similarly, Paparozzi and Gendreau (2005) suggest that the parolees who have been intensively supervised by their parole officers, who possessed exclusively law-enforcement professional orientations, had higher recidivism rates than those supervised by parole officers with a combined role of social work and law enforcement. Wodahl, Garland, Culhane, and McCarty, (2011) argue that in practice, the emphasis on surveillance in the community often resulted in an increase in minor violations leading to the revocation of parole, as the prison administrators and the Parole Boards would not want to risk keeping parolees in the community.

METHODS

This study has focused on the rehabilitation of the parolees in the community under the parole system in Malaysia. It was a qualitative research to provide a deeper understanding of this social phenomena (Silverman, 2013).

Data was collected in two phases. The first phase was library-based search and literature review where all of the relevant literature on the rehabilitation of parolees under the parole system were reviewed. The primary sources include the Prison Act 1995 and the secondary sources were textbooks, academic journal articles, government reports, newspaper articles, and online sources were reviewed.

The second phase of data collection is the fieldwork, in which the primary data was generated by adopting a case study research design. Such design involved five units of analysis representing the prisons in West and East Malaysia as well as the Parole Board members and the parolees. The instrument for the case study was face-to-face semi-structured interviews with the respondents from each prison, parole officers at the institutional level, and field parole officers at the state and district levels. Purposive sampling technique was used, which according to Silverman (2013), allows a researcher in selecting a case based on certain characteristics significant to the study. Qualitative data analysis was conducted through thematic and content analyses, in which the observations and the interview transcripts from the semi-

structured interviews were examined. The process consisted of creating codes and categories, considering the themes and then creating hypotheses about the respondents' experiences, along with the literature review. Primary data was triangulated with the semi-structured interview data obtained from seven members of the Parole Board and six parolees. The interviews were digitally recorded and their contents transcribed and analysed using the ATLAS.ti qualitative research software.

RESULTS

Rehabilitation of Parolees in the Community

The findings revealed that once a Parole Order has been issued, the parolees will be taken to the district parole office where they serve their parole and be placed into the charge of the community parole officer. Thus, within 72 hours after the officer receives the parolees for supervision, an initial assessment of the parolees which entails behavioural and psychological tests, identifying the parolees' basic needs, practical aid and support will be made. They will be responsible for looking for signs of potential dangers or barriers to the parolees' successful rehabilitation or reintegration into society. Additionally, they must also develop a case rehabilitation plan for the parolees, which encompasses their rehabilitation activities for the duration of their parole.

The study revealed that the parolees were obliged to attend any rehabilitation

programmes organised or directed by the community parole officers. The findings showed that the officers recognised the goals of the rehabilitation programs and the interventions were in the form of means, training, and counselling to overcome their recidivism probabilities. It was normal for such officers to conduct such programmes by having group sessions and activities rather than individually with the parolees. They also co-operated with other agencies such as the National Anti-Drugs Agency, the National Population and Family Development Board, the Social Welfare Department, the religious authorities and the non-governmental organisations to conduct the appropriate rehabilitation programmes for the parolees.

Challenges in Rehabilitating Parolees in the Community

This study has shown the community rehabilitation officers faced several legal and operational predicaments in carrying out their duties. The evidence indicated that the primary legal impediment was the lack of express legal sanction provided by Section 46K (e) of the 1995 Act. The Act does not explicitly state the duties of the parole officers to plan and arrange rehabilitation programmes for the parolees. In fact, the 1995 Act states expressly that parolees are under the statutory obligation to follow any rehabilitation programme as conducted and directed by their parole officers. Hence, by this provision the parole officers are indirectly responsible for rehabilitating the parolees.

In this respect, it is observed that section 46K(e) of the Prison Act 1995 implicitly provides for the discretionary power of the community parole officers to regulate and implement any suitable rehabilitation programmes that will help the parolees' re-integration into the community. Furthermore, the administrative guidelines from the Commissioner General and the Parole Division require the community parole officers to organise rehabilitation programmes for the parolees. Alternatively, they have an obligation to arrange for the parolees to undergo rehabilitation programmes with another party including other government agencies, non-governmental organisations and through the informal social support such as family and the surrounding community. Despite the absence of any express legal authority to conduct their tasks, findings revealed that such officers were aware of and acknowledged their role in the parolees' rehabilitation and in preventing the latter from re-offending.

Another legal impediment is that the 1995 Act does not provide, either explicitly or implicitly, the purpose and function of the parole system. The purpose of parole can only be found in the parliamentary Hansard and in the mission statement of the parole system on the website of the Malaysian Prison Department. A clear legislative statement of the purpose of parole would significantly provide focus and clarity for the Malaysian Parole Division and the parole officers.

The findings indicated that there were several operational challenges for the officers when the parolees were placed under their supervision. One of these was the absence of any rehabilitation reports from the prison that the community parole officers could rely upon to assist them in rehabilitating the parolees in the community. Absence of such documentation and information on the parolees has resulted in the difficulty in preparing their case plans, which would determine what type of rehabilitation programmes the parolees would have to undergo.

Another operational impediment related to preparing the case rehabilitation plans for the parolees is the lack of understanding of the community parole officers on parolees' behaviours due to their lack of qualification in performing the necessary psychological and behavioural tests for the parolees. Such problems are aggravated by the lack of application and availability of scientific assessment tools to conduct the parolees' rehabilitation assessments. Consequently, given the lack of expertise and tools, officers faced difficulty in understanding the parolees' emotions, behaviours and stability factors, which are crucial in preparing the case plans. Also, given the absence of any empirically-based assessment of the parolees' criminogenic needs and their risks of reoffending, the officers had to rely heavily on their individual experiences in interviewing the parolees and also on the directions of their parole office managers.

Finally, findings indicated that the officers were unable to concentrate fully

on their rehabilitation programmes and counselling for the parolees as they also have to allocate their time for surveillance of the latter. Furthermore, such officers were also involved in the day-to-day administrative work and other specialised tasks. Thus, heavy workload had compromised their time supervising the parolees.

DISCUSSION

This study has highlighted the crucial role of community parole officers in the rehabilitation of parolees to result in their successful reintegration into the community. The findings confirm those of Ball et al. (2008) that the community parole officers play a vital role in the assessment of the parolees' weaknesses, needs, and barriers within the first 72 hours of their release, to determine the appropriate rehabilitation programmes in the parolees' case plan. As a rehabilitating agent, such officers not only conduct rehabilitation programmes for the parolees but also established networking with other parties to support the parolees' needs and adaptation to the community. These are also in line with Travis' view (2005) who stresses on the importance of co-operating with other parties in the community to facilitate the rehabilitation of the parolees.

Findings of this study also revealed that the community parole officers faced legal predicament as a result of the lack of provisions in the 1995 Act on parole supervision duties and the lack of any explicit focus and direction of such rehabilitation. Evidence suggested that due

to such deficiency, the community parole officers relied on the soft laws such as the departmental guidelines and memos to guide their supervision. This is consistent with the findings of Petersilia (2001) who opined that the lack of legal rules will lead to unwanted disparity in the implementation of the rehabilitation programmes.

Findings of this study also confirmed those in the literature that community rehabilitation officers continually face numerous operational challenges in the discharge of their duties. Mc Garry et al. (2013) remarked that such problems are connected to the officers' lack of expertise in their assessment and preparation of the appropriate case plans for the parolees. Additionally, there was a gap in sharing the relevant information and rehabilitation reports from the prison and the lack of application and availability of scientific assessment tools to assist them in developing their case plans. This finding nevertheless, seems to disprove Miller and Maloney's (2013) contention that such report and tools are significant in understanding the parolees' rehabilitative progress and whether the parolees' offending behaviour are being appropriately addressed.

Thus, the operational problems were compounded by the officers' dual role of rehabilitation and surveillance of the parolees and also by their other administrative duties. Furthermore, with the increasing caseloads and limited resources, the tendency of the officers was to focus on the surveillance and enforcement aspect rather than on rehabilitation. This inclination

towards surveillance confirmed the view of Quinn and Gould (2003) who stressed that with heavy caseloads, the community parole officers have limited time for their rehabilitation duties.

CONCLUSIONS

Undoubtedly, community rehabilitation officers play a significant role in the rehabilitation of parolees. Nevertheless, the findings of this study revealed that the officers faced legal and operational predicament in exercising their duties. Thus, it is recommended that the duties of such officers and the objectives of the rehabilitation are explicitly laid down in the Prison Act 1995. A clear legislative framework will assist such officers in providing them with a clear direction of their rehabilitation duties. It is also a challenge for such officers in understanding the complexity of the parolees' profiles, the assessment of their needs, developing the case plan and networking in the community successfully to implement the rehabilitation programme. Hence, the tasks of community parole officers as the rehabilitative agent are challenging. Given their unique positions, the parole officers should be able to maintain the delicate balance between assisting the parolees' rehabilitation and surveillance to preserve community safety.

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