博士論文

A Comparative Criminal Justice Approach to the Creation of a Peacemaking Parole Model: The case study of Japan and Costa Rica

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Chapter 1

The present investigation proposes a comparative approach for developing a peacemaking parole model based on the Tokyo Rules and the reintegrative characteristics of the Japanese and Costa Rican parole laws. A functional comparison of both nations' parole legislation aims to reveal support practices and shared trends in community-based treatment that can contribute to fairer criminal justice practices.

Methodologically, the present study belongs to the comparative law scholarship, and in its contents, it is part of the international criminal justice and peacemaking scholarships. The comparative examination is relevant to address current challenges in assessing parole systems in diverse criminal justice environments. In addition, the model proposed here is pertinent to develop parole practices that promote peacemaking through concrete and achievable legislation.

1. Description of the Problem

The present investigation addresses four challenges in comparative law scholarship that can negatively affect the development of fairer parole models. These challenges overlook criminal justice practices in “non-Western” nations, discredit the value of rehabilitation, restrict parole assessment to risk factors, and impair the applicability of international standards.

These challenges limit the orientation of parole research and the development of community-based intervention programs worldwide. Until researchers take steps to change the current situation, comparative investigations will face obstacles in comparing parole laws and finding common ground to develop parole models based on the best practices available. Therefore, the present investigation proposes a method that compares parole laws according to their support capabilities and then develops a parole model that can further criminal justice’s role as a peacemaking institution.

1.1 Challenges in Comparative Research

The first challenge relates to the longstanding traditions in comparative scholarship. Conventionally, comparative criminological and legal research heavily skews toward Western European and English-speaking nations (Ndubueze, 2021). This tradition dates to legal practices in 19th-century industrialized countries and the progressive expansion of comparative criminal justice throughout the globe (Garland, 2018a). These leading countries created the foundations of the modern penitentiary system and continue to influence the development of criminal justice legislation today.

Now, late 20th-century conditions and the transformation of the world order into a globalized community of nations form the basis for understanding current problems in criminal justice [1]. Although Western European and English-speaking nations are still significant sources of information and development, the interconnected tissue that binds nations has elevated local challenges into regional and global problems. Consequently, addressing current challenges in criminal justice administration demands collaborative efforts to create sensible, pragmatic, and balanced justice models.

In recent decades, comparative researchers have increasingly paid attention to nations in the "Global South" and East Asia to assess the viability of criminal justice models and to reach an understanding of a "global cognitive justice" (Cunneen,2018; as cited in Ndubueze, 2021). Researchers from "non-traditional" countries are beginning to contribute to comparative scholarship by introducing differing epistemologies and alternative criminal justice practices, increasing access to new examination sources. These contributions are valuable and necessary to reduce bias in the development of justice models, i.e., creating legal standards based on the conditions of economically developed nations, and to reveal promising practices in pragmatic settings, i.e., local forms of restorative justice and community control (Banks and Baker, 2016).

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[1] See for example, the studies of Campbell and Schoenfeld, 2013; Forman, 2017; Garland, 2001; Hinton, 2016; Kohler-Hausmann, 2017; Thompson, 2010; and Murakawa, 2014 (Garland, 2018a).

1.2 Challenges in Rehabilitation

The second challenge refers to the movements critical of rehabilitative penitentiary treatment. The “rehabilitative ideal” enjoyed worldwide support in leading nations until the 1960s, but after, academics and practitioners questioned the value and effectiveness of rehabilitation to reduce reoffending (Garland, 2018b). It was during the 1970s in the United States that a significant breakthrough occurred. This was due to the publication of empirical research findings on rehabilitative treatment’s ineffectiveness. This pivotal moment brought about the "Nothing Works" framework as a response to R. Martinson's critique of prison treatment. This framework gained support globally and influenced criminal justice policies for decades.

Martinson clarified his stance in later years, stating that some programs worked, but his research made poignant and correct criticisms of the treatment programs applied in American prisons at the time[2]. In the end, Martinson’s work had an over-corrective effect in the USA and abroad. Instead of improving the rehabilitative model or applying better standards in penitentiary treatment, the paradigmatic revolution of the "Nothing Works" movement led to the creation of penitentiary projects that diminished the value of treatment and favored institutionalization (Downes and Hansen, 2006). In the USA, for instance, legislators abolished parole in the federal system, and instead introduced a “problematically complex, rigid and severe” parole model (Berman, 2017).

According to Starkweather (1992), in the decades following the 'Nothing Works' framework, retribution gained adepts in academic and political circles as a direct response to the inability of rehabilitation to achieve its goals. A “rediscovery” of retribution theories led to the “Just Deserts” models. According to the Just Deserts model, offenders were “deserving” of punishment as rational agents and punishment itself was the purpose of criminal justice intervention. Proponents of Just Deserts also asserted that a retributive criminal justice project was necessary to preserve the dignity of victims and protect society (Starkweather,

[2] Other works on these topics were those of Bottoms and McClintock, 1973, and Clarke and Cornish, 1975 (Downes and Hansen, 2006).

1992). After the 1990s, tough-on-crime approaches that favored imprisonment gained supporters worldwide and became a go-to solution to deter criminal behavior, decreasing the application of community-based alternatives and impeding access to parole (Fulham, 2019).

However, in the late 1990s and early 2000s, nations where the just deserts principle had gained support also began to experience overall growth in imprisonment rates. Comparative investigations found that retributive imprisonment was not as effective in reducing crime or victimization (Fulham, 2019). Furthermore, empirical studies revealed that retributive punishment contributed to widening the gaps in social inequality (Garland, 2016). Since then, criminal justice researchers internationally have turned their attention to the unintended consequences of retributive policies (Garland, 2018a).

In recent years, international human rights organizations have raised objections against prisons' excesses and repeatedly contend that restricting personal freedoms has not had demonstrable effects on criminality and violence (CIDH, 2018a; as cited in Centro de Estudio de Justicia de las Américas, 2021). These organizations have become vital supporters of rehabilitation as the goal of penitentiary action, calling for substitute measures and community supervision to reduce the use of prison (Centro de Estudio de Justicia de las Américas, 2021). However, to argue for rehabilitation and offender support, it is necessary to look for examples of countries that apply rehabilitative programs and shed light on the advantages of reintegrative, human rights-oriented policies to reduce criminality and decrease the negative collateral consequences of overly punitive systems.

1.3 Challenges in Parole Assessment

The third challenge refers to current trends in parole assessment. International trends in parole assessment show that the analysis of static and dynamic risk factors has gained traction. For example, the OASys or the OGRS systems used in England, or COMPAS used in the US, base the risk assessment of would-be parolees on historical facts and reoffending risk. Although these risk assessment tools are valuable assets for parole authorities, studies suggest they are ineffective in predicting reoffending or reducing recidivism rates (Padfield, 2007).

As per Berk et al. (2021), recent attempts to enhance risk analysis programs involve comparing the risk assessments derived from machine learning with those obtained from conventional methods. However, the findings differ based on the model's complexity and the personnel's preparation. Moreover, there is still concern about the fairness of risk-predicting models when dealing with embedded discriminatory practices and the lack of value placed on support programs during community treatment. Research on data-based programs in the assessment of parole suggests that:

> *While well-intentioned, this approach [actuarial risk assessment] is misguided. The United States inarguably has a mass incarceration crisis, but it is poor people and minorities who bear its brunt. Punishment profiling will exacerbate these disparities—including racial disparities—because the risk assessments include many race-correlated variables. Profiling sends the toxic message that the state considers certain groups of people dangerous based on their identity. It also confirms the widespread impression that the criminal justice system is rigged against the poor.* (Starr, 2014; as cited in Berk et al., 2021, p. 4)

Recognizing the deficiencies of risk assessment tools and continuously working toward their improvement would decrease problems in profiling and "false positives" [3]. However, there are inherent challenges in data collection and use in criminal justice systems. Lack of standardization in data collection practices, absence of reliable information, overreliance on state data, and divergence in legal definitions are challenges data-based technologies must eventually overcome to become dependable (Berk et al., 2021).

More importantly, expanding the criteria of what constitutes relevant information in risk assessment analysis is necessary. Relying exclusively on individual factors does not consider the impact of support structures and community resources when available. Further, risk assessment tools do not question the structure of penitentiary programs nor justify the application of reintegrative measures. Therefore, despite the advances in case-assessment

[3] False positives refer to those cases when the risk assessment predicted mid to high levels of reoffending risk, but the parolee successfully concluded the criminal sanction without reoffending.

technologies, criminal justice research must continue to work toward creating better penitentiary conditions and minimizing the risk of turning data-based programs into repressive tools.

1.4 Challenges in Comparative Parole Standards

Lastly, the fourth challenge refers to international parole standards. Globally, criminal justice systems use parole as an institution through “which prisoners are released into the community before the expiration of their sentence on certain conditions and often under the supervision of the relevant authorities after release" (Takai, 2021, p. 48). Also called conditional release, parole has been central to modern penitentiary projects and reforms since the 19th century, balancing sentencing and creating opportunities to assess offenders based on their personal qualities (Takai, 2021). Now, most criminal justice systems around the planet recognize parole, but practices vary broadly between nations and sometimes to the detriment of offenders.

Internationally, the United Nations adopted the Tokyo Rules as general guidelines for community treatment programs like parole, based on social rehabilitation principles. These international standards have created a foundation for community alternatives in criminal justice and paved the way for practical norms throughout the world (Takai, 2021). However, until now, there has not been a dependable and continued comparative overview on a global scale to assess the impact of the Tokyo Rules (Joutsen, 2020), nor has a comprehensive study that reveals the concrete shape policies based on the Tokyo Rules can take.

As Joutsen (2020) indicates, regional research efforts in the USA and Europe work toward creating comparative databases to assess parole practices. Yet, these comparative studies focus on specific treatment models or examine foreign practices without creating comparison models beyond observing recidivism rates. Despite their valuable contribution, large-scale initiatives such as the "Supervision Around the World" Project and the "Global Community Corrections Initiative" do not create comparative methodologies necessary for comprehensive analyses of parole practices.

For the present investigation, finding comparative criteria is necessary to improve research techniques and foster the implementation of human rights-oriented, reintegrative parole models. Comparing parole systems straightforwardly without considering internationally oriented rationales precludes the promotion of human rights standards and is insufficient to promote comprehensive reforms of criminal justice systems. Finding objective comparative criteria that reveal the advantages of human rights-based practices is necessary because national "institutions do not change in any fundamental way simply because political and institutional leaders suddenly wish to be compliant with international human rights standards" (Sabet, 2012; as cited in Darke et al., 2021, p. 112). Moreover, imposing general guidelines to abide by international standards "may generate unpredictable synergies and/or tensions with existing practices and interests" (Armstrong, 2018; Hannah-Moffat, 2010; as cited in Darke et al., 2021, p. 112). Therefore, authorities not only require substantiated information to argue in favor of penitentiary reforms, but they also need concrete examples of the application of general standards to nations with similar criminal justice systems.

2. Research Objectives

The present study aims to overcome the above challenges by promoting the comparative examination of non-traditional systems, applying social reintegration measures, respecting human rights standards, and pursuing peacemaking justice as the foundational pillars of a new parole model. The study contributes to comparative criminal justice and human rights scholarship in three key areas. Firstly, it compares two parole systems that promote offender reform through community-based treatment. Secondly, it evaluates the implementation of the Tokyo Rules in community-based programs across two distinct environments. Thirdly, it creates a new parole model based on the general principles found in the Tokyo Rules, as well as the reintegrative aspects of the Japanese and Costa Rican systems.

2.1 Concerning the Challenges in Comparative Research and Parole Standards

The present study confronts the challenges in comparative research and parole standards by creating a set of criteria based on the Tokyo Rules. These criteria can ease the

comparison between parole systems, assessing vital functional areas of parole management and the resources at their disposal[4].

Creating a firm ground for comparison is essential to develop fairer and effective legislation. About comparative law, Liszt explained that comparison does not "simply highlight the similarities and differences of different normative systems" (1894; as cited in Pifferi, 2016, p. 47). The scientific comparison of laws creates a “new law of the future”, finding ground for new criminal policies and further progress toward better penitentiary practices (Liszt, 1894; as cited in Pifferi, 2016, p. 47). Moreover, in a globalized context, convergence in criminal justice rewards the assimilation of “effective” practices and strategies that can improve criminal justice practices worldwide (Nelken, 2010).

Developing comparative criteria is the first step toward expanding the study of parole systems around the globe and exposing practical distinctions in the “Global North and South”. Basing the criteria on international regulations improves the assessment of foreign systems by revealing shared notions and highlighting unique institutions. This effort is necessary to prevent misunderstandings such as those in early comparative studies from American researchers on Japanese criminal justice. In their initial investigations, American researchers did not consider the influence of European Continental models in Japan, and as a result, they interpreted European principles to be inherently Japanese (Nelken, 2010). Generalizable criteria can limit misapprehensions of criminal justice practices, finding trends that traditional comparative research may overlook.

Comparative criteria can also contribute to understanding how accepted principles or practices work in different settings. Non-traditional sources of comparison can supply information on the alternative application of international standards in various environments, allowing researchers to find common practical trends that can lead to more flexible criminal justice models (de Cruz, 1999). Solid comparative criteria can also help comparative researchers “escape (…) self-sealing cultural logics" (Field and Nelken, 2007; as cited in Nelken, 2010, p. 15), revealing the spread of institutions, policies, technologies, and solutions,

[4] For more, see section 4.1.

as well as the unique transformation processes of international laws in local environments (Nelken, 2010).

Therefore, the present study uses the criteria as the foundation for a comparative examination of parole systems and as the baseline to promote better practices in vital areas of parole management. These areas determine the capability of parole systems to foster human rights and offender support, fundamental aspects of rehabilitative treatment, and crime prevention. Here, the Tokyo Rules give an insight into the topics that require the most attention in a parole system and grant a perspective on the requisites for a human rights-based practice.

2.2 Concerning the Challenges in Rehabilitation and Parole Assessment

The present investigation seeks to overcome the challenges in rehabilitation and parole assessment by promoting social reintegration as an empirically supported framework that enhances the involvement of community resources, improves community-based supervision, and minimizes the risk of reoffending.

First, the reintegration framework addresses the apprehensions against rehabilitative treatment. As Crimmins (2018) states, Martinson's work showed that rehabilitation programs without a rehabilitative environment were ineffective because of the systematic contradictions that prisoners would experience. Martinson's studies also revealed that one of the factors that affected the reliability of rehabilitation programs was long prison sentences and the interruption of normal life processes. Although these observations aimed to improve rehabilitative programs, the over-corrective effect that followed the "Nothing Works" movement strengthened retributionist models to the detriment of rehabilitation models.

In response, reintegration opposes retribution, finding support in a longstanding tradition of criminal justice philosophies that call for comprehensive criminal and social policies to decrease criminality and reoffending. Such calls have existed since the late 19th century among academic, political, and philanthropic circles. Renowned scholars such as Ferri and Liszt, for example, believed that proper social policy was more effective in preventing crime and opposed purely retributive methods of crime fighting (Rusche and

Kirchheimer, 2017, pp. 140-141). From their perspective, there was no strict equivalence between crime and punishment; therefore, expecting to affect criminality solely through punishment was a mistake.

The reintegrative framework also finds backing in research traditions to oppose the excessive use of imprisonment and promote community-based treatment. During the first half of the 20th century, researchers took notice of the delicate balance between punishment and treatment. Critically, investigators suggested that excessive and cruel punishment was wasteful from the consideration of state resources and social coherence. Highly restrictive prisons and long sentences were more likely to worsen low-level offenders and turn them into violent criminals, guaranteeing that after release, offenders would fall into a vicious cycle of violence and prison reentry, putting society at risk and rupturing the social fabric (Durkheim, 1961; as cited in Braithwaite, 2006, p. 178).

Recent scholarship shows that offender-centered processes that incentivize individualized care and responsive support and recognize the value of community intervention are more effective in preventing reoffending[5]. Empirical studies suggest the importance of supportive social relationships in the role of penitentiary officers beyond their responsibilities as guardians or specialists in security[6]. More importantly, there is evidence that creating opportunities for housing and employment for offenders is highly effective in reducing reoffending[7]. Reintegration uses these scientific efforts to justify penitentiary practices that reduce the negative consequences of imprisonment and create fairer justice systems.

A reintegrative framework also addresses the criticisms against improving the conditions of offenders and parolees. A highly influential argument against offender support programs is that of Mannheim and his "principle of non-superiority." From this perspective,

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[5] See, for instance, the work of Deering and Smith (2016; as cited in Coverdale, 2017, p. 28).

[6] For example, Maruna and Toch, 2001; McNeill, Raynor, and Trotter 2010; McNeill et al. 2012 (as cited in Coverdale, 2017, p. 28).

[7] Hedderman, Gunby, and Shelton, 2011 (2011; as cited in Coverdale, 2017, p. 28).

offenders' condition after finishing a criminal sentence "should at least not be superior to that of the lowest classes of the non-criminal population" (Mannheim, 1939; as cited in Francois, 2019, p. 88). Moreover, the non-superiority principle opposes welfare policies for all offenders when unavailable to the public (Francois, 2019). In short, the non-superiority principle considered that providing offenders who had violated social rules and endangered society with support or improving their standing compared to law-abiding citizens was unfair.

Although the principle of non-superiority purports to guarantee better conditions for law-abiding members of society, creating prohibitive environments for offenders can have negative long-term effects. Imprisonment exposes offenders to disadvantages that far exceed punishment's purpose and often leave prisons in marginal conditions (Francois, 2019). Most support policies work to elevate offenders' standing to the same level as the lowest class of the non-criminal population and rarely grant benefits not available to the general population.

The reintegrative framework considers that criminal justice institutions must contribute to resolving competing conflicts and interests that permeate society. Creating better conditions for offenders is part of a balancing act between utility and justice, where comprehensive policies might be useful and equally just to all parties involved (Raphael, 2001; as cited in Padfield, 2007). Therefore, the reintegrative approach views offender support programs not as undue benefits but as necessary activities to redress unintended consequences during punitive action, indispensable to prevent reoffending and re-incarceration cycles.

Second, a reintegrative framework addresses the risk factors used in parole assessment. It opposes the notion that penitentiary treatment "works on offenders", turning the penitentiary experience and parole evaluations into passive affairs. Rather, reintegration supports treatment programs that "work with offenders", allowing them to take charge of their own lives positively, and intervention programs that connect them with community resources that aid reinsertion. Further, reintegrative parole assessments promote a comprehensive structure that involves these community resources from the earliest possible stage, collaborating with external organizations to improve parole investigations. To this end,

reintegration considers welfare-oriented policies and assets as elements parole authorities must incorporate into the parole system.

By encouraging a closer relationship between the criminal justice system, welfare-oriented institutions, and community organizations, reintegration recognizes the limitations of criminal justice institutions in reforming offenders. The role of criminal justice is to respond to criminal wrongs, whether against individuals, groups, or society. As a result, criminal justice, as a system designed to determine culpability and apply punishment, is not the proper medium to address issues resulting from social inequality (Coverdale, 2017). Welfare policies, on the other hand, respond to material disadvantages and create paths to make resources accessible.

Incorporating external support organizations and institutions during the parole examination can improve offenders' chances of receiving a positive review by reformulating risk prediction factors. From a reintegrative perspective, risk management requires a concerted action that involves community resources and active collaboration with social support institutions. Through reintegrative frameworks, parole studies can consider the support structures available in offenders' communities and the capability of these structures to address the specific needs of each offender. Therefore, reintegration advocates for a closer relationship between welfare and similar support institutions to ensure fairer assessments that place significant weight on the opportunities available to offenders.

Finally, a reintegrative parole model opposes the simplified view of parole as an extension of penitentiary control. Researchers such as Yoshinaka (2008), argue that legislation on community-based surveillance require clear limits to compound on the support capabilities of criminal justice institutions. Without a support-oriented structure, parole systems can turn toward risk management and excessive control as the preferred method for crime prevention, resulting in practices that turn community-based interventions into "prisons within the community". Although control technologies, particularly electronic surveillance systems, can become valuable assets to community-based interventions, the present study contends that systems that emphasize constraint can negatively impact the

rehabilitation or reform process of offenders who would benefit from a support-oriented approach.

2.3 Creating a Parole Model

The peacemaking parole model opposes criminological, penitentiary, and criminal justice doctrines, such as the one supported by Jakobs, that perceive offenders as "enemies" to defeat or immoral individuals that require suppression. From this perspective, a person becomes an "enemy" after willfully refusing to follow legal mandates. However, this reasoning reduces personality to a normative element, as the mandate to follow rules, and an empirical element, as the attitude toward the rules (García Amado, 2006, p.103). As a goal, this reductive perspective aims to eliminate legal guarantees and maximize state efficiency whenever facing organized criminal organizations or extremists. Supporters of such repressive theories state that criminals, out of their own volition, reject the rule of law and are thus not subject to it nor should they benefit from the same laws as citizens (García Amado, 2006, p. 105).

Although a peacemaking parole model and Jakobs' propositions deal with distinct aspects of the criminal justice system, both oppose each other from a philosophical perspective. Theories that create enemies out of criminals take an a priori perspective using normative reasoning, limiting the category of legal personality to following rules. However, the principles that guide the peacemaking parole model follow empirical observations of the criminal justice system and criminal justice policies. From a peacemaking criminology perspective, states, through the designation of a sector of the population as enemies and the application of stigmatizing and repressive measures, expand their control over the population without necessarily improving the general social conditions that justify penal intervention (Weber, 1993, p. 116-117). The creation of enemies serves only the purposes of the state, motivating only further exclusion and social unrest.

Therefore, the present study proposes a parole model that promotes peacemaking through reintegrative and human rights-oriented rules. Creating this model is relevant to formulating comprehensive criminal justice reforms that integrate balanced penal measures with constructive social policies. A model founded on peacemaking principles recognizes in

crime social harms that carry far-reaching social consequences, which in response require balancing social actions extending beyond the reach of punitive institutions. Peacemaking does not find satisfaction in distributing guilt but in the recovery of those who, given the opportunity, can pay their dues and find meaningful lives as part of society and members of their communities.

2.3.1 Foundation of a Parole Project

Crime management is costly to society in terms of prevention and control. Criminal legislation that lacks depth and flexibility relies on repressive measures, isolates criminal justice institutions from social policies, further increases costs, and alienates criminal justice administration from the public (Weber, 1993; Rusche and Kirchheimer, 2017). Such criminal justice systems tend to experience problems of prison overcrowding and institutional violence and show elevated recidivism and victimization rates (Fulham, 2019).

Dealing with crime requires comprehensive collaboration strategies between criminal justice institutions, communities, and support organizations. Penal policies congruent with interinstitutional cooperation are necessary for offender reform and the protection of society by preventing the negative effects of institutionalization. For the present investigation, reintegration and human rights-oriented frameworks can contribute to creating such policies. Reintegration differs from re-entry and similar concepts that refer to the transitional stage following the completion of a criminal sentence (National Research Council, 2008; as cited in Hamin and Abu Hassan, 2012, p. 326). Reintegration from a peacemaking perspective views participants in the penitentiary process as complex individuals who can benefit from different forms of mediation, de-escalation, and conflict resolution (Weber, 1993, p. 115). From this perspective, rehabilitation activities, educational programs, volunteerism, work training, SST, community work, restorative programs, and other forms of intervention are not only necessary to prevent reoffending, but they are also valuable tools to connect offenders with community assets and thus improve their chances to reform (UNODC, 2013).

Promoting social reintegration in parole can ease offenders' return to their respective communities. Released offenders face concrete difficulties such as finding housing, employment, and supporting themselves or those under their care. The United Nations Office on Drugs and Crime (2013, [UNOC]) regularly conducts research that reveals that successful reintegration frameworks create opportunities and social support systems that reduce imprisonment's collateral effects. Similar investigations also suggest that reducing the length of stay in prisons contributes to offenders' social reintegration and reduces reoffending. For parolees, the combination of supervision and support programs has the highest potential of decreasing reoffending, especially when penitentiary officers conduct both programs in conjunction with community resources (UNODC, 2013). Overall, international research points to community-based treatment's effectiveness in achieving more positive outcomes when community resources and interinstitutional cooperation support criminal justice institutions (Fulham, 2019).

Reintegration coincides with the propositions of international human rights regulations. Internationally, the United Nations Standard Minimum Rules for Non-Custodial Measures, also known as the Tokyo Rules, is vital in standardizing community-based treatment and early-release measures. These rules resulted from a collaboration between East Asia nations and the United Nations, receiving support worldwide and guiding parole practices in different legal environments. For the present study, the Tokyo Rules are the best available guidelines to structure the creation of a peacemaking parole model because they aim to reduce recidivism through reintegrative policies and community involvement in non-custodial measures from a human rights perspective (Fulham, 2019).

By combining the reintegrative framework and human rights standards, the present study sets the foundation for an empirically grounded peacemaking parole model that can find support in the international community. The peacemaking perspective traces back to the 19th century with the introduction of probation in the American criminal justice system. Proponents of probation at the time supported humane, compassionate, and empirical approaches in criminal justice management. John Augustus, a contributor to the peacemaking view, stated that the "object of the law is to reform criminals, and to prevent

crime and not to punish maliciously, or from a spirit of revenge" (Augustus, 1972; as cited in Gesualdi, 2014, p. 61).

In the late 20th century, American criminologists grew concerned with the failure of criminal policies, especially of policing actions that were overly concerned with crime fighting through controlling strategies. Linking criminological research with the peacemaking principles, American researchers pointed to the contribution of criminal justice systems to keeping the criminal status quo and thought of the peacemaking possibilities of a new criminological orientation. It was necessary, they argued, to fundamentally overhaul the agenda of criminal justice institutions and shift crime fighting strategies toward "peacebuilding" policies (Weber,1993, p. 116)

Supporters of the peacemaking criminology's approach consider socially positive responses to crime as a "moral imperative" (Gesualdi, 2014). However, criminal sanctions contribute little to improving the victim's situation or preventing reoffending; they merely satisfy the state's "punitive pretensions" (Pablos, 2007). Thus, the peacemaking approach has found support in "restorative justice" circles, which aim to repair the social damage resulting from crime and promote victim-offender reconciliation programs (Gesualdi, 2014). Researchers such as Van Ness and Strong maintain that "justice is best served when victims, offenders, and communities receive equitable attention in the criminal justice process", and that victim compensation, restitution, or reparation from the offender is conducive to more effective resolution of the social conflict than incarceration (1997; as cited in Gesualdi, 2014, p. 10). Concretely, the peacemaking perspective considers the creation of equal well-being as a condition for achieving justice (Sullivan and Tifft, 1998). Therefore, the present investigation considers that creating a parole model based on peacemaking criminology's perspectives is necessary to open paths for conflict resolution and reparation of harm in collaboration with community resources and welfare-oriented agencies (Pablos, 2007). This form of collaborative justice can build communication channels and interaction spaces that bring criminal justice administration closer to society's needs (Sullivan and Tifft, 1998).

2.3.2 Costa Rica and Japan

The present study posits that the comparative assessment of criminal justice policies cannot limit itself to empirical analyses to claim the “success” of a legal practice. To rigorously evaluate the success of justice systems, it is crucial to understand the guiding laws and objectives. It is not enough for a system to be successful based on empirical data; it must also be successful by a design that maximizes opportunities. Furthermore, it is imperative that in its design, a criminal justice system not only constrains the state's “ius puniendi”, but it must also encourage interaction with community organizations and support institutions.

To develop a peacemaking parole model, it is necessary to look for parole systems that do not revolve entirely around offender control and apply human rights-oriented policies. From a peacemaking perspective, Japan and Costa Rica's parole systems appear as examples that promote reintegrative practices by investing in professional human resources and community-based treatment.

However, the present investigation does not claim that Japanese and Costa Rican legislations follow peacemaking principles per se. Rather, these are systems that have peacemaking characteristics imbued in their design. Such appreciation is not based exclusively on an assessment of empirical data or on the successful reduction of recidivism but on the support measures that each system creates to encourage community-based treatment in completely different criminal environments.

Choosing the Japanese and Costa Rican parole systems results from evaluating political and technical factors that justify using them as examples for a peacemaking parole model. Among the factors that influenced the decision to compare these countries are the differences in criminal environment, as a determinant factor on the applicability of peacemaking-oriented measures in diverse environments, the political stability and international standing, as a reflection on the relevance of human rights protection, and the specialization of penitentiary norms, as a suggestion of the systems’ orientation toward the technical intervention.

Regarding the criminal environment, Costa Rica is part of the Central American region, one of the most violent regions on the planet, despite the absence of open military conflict. Comparatively, Japan is part of the East Asia region, one of the least criminally violent regions around the globe. Data from Costa Rica indicates that over the past fifteen years crime rates have risen, leading to historical prison overcrowding. Despite this increment, comparative studies within the Latin American region suggest that Costa Rica is still a stable nation and safer than other countries in the hemisphere. On the other hand, Japan is one of the industrialized countries with lower levels of criminality and continues to be a leader amongst East Asian nations in reducing criminality.

On political stability and international standing, both nations have enjoyed decades of political continuity, manifested by the absence of constitutional rupture. Whether by force or mandate, following periods of political and military strife in the 1940s, both nations significantly reduced the role of military forces on a constitutional level. Costa Rica permanently abolished its armed forces in 1949, and Japan has kept self-defense armed forces since 1947. Since, both countries have been proponents of the peaceful resolution of international conflicts and host organizations dedicated to peace.

Further, both countries hold the seat of regional organizations within the United Nations system of crime prevention and treatment of offenders, UNAFEI for Japan and ILANUD for Costa Rica. As a result, ongoing cooperation between both organizations has already laid the groundwork for future comparative research based on human rights doctrine. In addition, Costa Rica is also host to the Interamerican Human Rights Court and is an active participant in international forums for the promotion of human rights on a regional level.

Although increasing criminality in Costa Rica has endangered its position as a peaceful nation, the country has managed to sustain penitentiary laws respectful of prisoner rights and a solid checks and balances system dedicated to the supervision and control of prison administration. Furthermore, Costa Rican constitutional law has a longstanding tradition of respecting fundamental guarantees in the penitentiary. For example, since 1883, the country abolished the death penalty, and since 1949, the constitution prohibited the use of perpetual punishments, hence abolishing indeterminate and life-in-prison sentences. In

the case of Japan, after receiving criticisms against its penitentiary system in the early 2000s, the government implemented a series of reforms to bring the system closer to international human rights standards. Moreover, the country has promoted alternative and community-based sanctions to a large degree, successfully decreasing its prisoner population and increasing the level of support for parolees.

On the specialization of penitentiary norms, criminal legislation in both nations declares resocialization and rehabilitation of offenders as goals within the criminal justice system. However, treatment programs in the two countries present relevant distinctions. The Costa Rican penitentiary administration is under the control and direction of a body of technical and professional workers of diverse backgrounds, but the Japanese administration mostly depends on prison officers for the correction and intervention of prisoners. Yet, the community-based programs in each system hold sufficient commonalities that make comparison relevant. The operation of community-oriented supervision does not rest in the hands of police officers but in those of professional technicians of multidisciplinary backgrounds. Parolees receive supervision and support from parole officers and community assets, although at distinct levels of intervention. For example, the Japanese parole system is famous for its volunteer officers, but Costa Rica's parole system depends on the direct involvement of professional officers.

Based on the above factors, the present study considers that Japan and Costa Rica's parole systems hold sufficient similarities and discrepancies that merit closer examination. Although there are significant differences in criminal environment and parole laws, contrasting the Japanese and Costa Rican systems provides an opportunity to assess the commonality in specific policies between two nations with lower levels of criminality within their respective regions. Taking Costa Rica and Japan as comparative examples, this research also lays the groundwork for future studies to assess the impact of peacemaking-oriented measures in improving general social well-being.

3. Examination of Literature

The present investigation took a grounded theory approach to develop a peacemaking parole model. As a method, grounded theory allows flexibility in data collection, assessment of information, and comparative examinations. Through grounded theory, it is possible to code and categorize a broad variety of information to integrate it into a theoretical space and analyze a particular phenomenon from a foundational philosophical point of view (Dirks and Mills, 2015). For the present investigation, improving the interconnectivity between criminal justice institutions and community resources to create fairer criminal justice practices is the foundational philosophy that guided the selection process of the comparative targets and the literature examined.

The present study uses as the central sources of information national and international regulations, academic materials, scientific literature, jurisprudence, and interviews with practitioners. Sources include Japanese, Costa Rican, American, Latin American, European, and East Asian documents to fully flesh out the international perspectives on parole and find congruencies and differences between criminal justice systems. The author freely translated the information from Japanese and Spanish sources into English.

3.1 Previous Research

In the preparatory stages for the present investigations, the author searched for comparative studies on parole and studies on parole from a peacemaking perspective. Although there are records of comparative examinations of foreign parole systems in Japanese scholarship, these studies had a limited scope. In the case of Costa Rica, no formal studies of this kind exist. On peacemaking and parole, there are case studies of peacemaking practices in American and African criminal justice systems, but these did not include guidelines on how to apply general reforms to the parole system.

A limitation of the present study is the scant number of comparative criminal justice investigations between Japan, Costa Rica, East Asia, and Latin America. The present investigation points to three circumstances that may explain the lack of studies between both

regions. First, Latin America is, in terms of homicidal violence, the most violent region on the planet. Additionally, the region suffers from elevated levels of economic inequality and political strife, resulting in increasing numbers of prisoners in subpar facilities[8]. As a result, the necessity to compare criminal legislation for the profit of East Asian criminal justice systems is low. Second, Latin American nations have a deep-rooted tradition of regional legal cooperation thanks to shared cultural and linguistic origins. Thus, comparative efforts focus on the regional assimilation of legislation. Finally, Japan and Latin American nations continue to look towards European and North American countries as sources of knowledge and comparison to develop criminal justice policies.

Despite the above limitations and lack of previous studies to base the present study, the common historical roots of European Continental practices can also facilitate the comparative examination of adopted principles in different environments. After overcoming linguistic and cultural barriers, studies like the present investigation can strengthen the relationship between Latin America and East Asia, expanding comparative criminal justice scholarship to new frontiers.

3.2. On Parole

Literature on parole and studies on parole laws abroad abound. The present investigation collected literature on the history of parole and on current practices in the American and European continents, specifically those of Great Britain and the USA. There was also plentiful information on the Japanese parole system and studies on the current practices, but in the case of Costa Rica, academic literature or research on parole does not exist.

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[8] The accelerated growth of the incarcerated population in Latin America happened at the same time increasing poverty and exclusion from years of neoliberal hegemony and draconian drug laws took place in the region. Moreover, economic crises made it challenging to sustain the penitentiary system and drove "state power within the prison to despair and has led to a decline in its capacity to surveil and control life between the prison walls." (Birbeck, 2010; as cited in Darke et al., 2021, p. 44).

Data and laws specific to Japan and Costa Rica contribute to assessing their parole systems. Further sources support the historical examination of parole from an international perspective and exploration of offender support frameworks.

3.3 On Data

The present study uses data on parole, criminal justice institutions, and recidivism as support for community-based treatment, but it does not compare data from Japan and Costa Rica. A summary examination of penitentiary statistics in Costa Rica and Japan shows that parolees reoffend less than offenders who leave prison after finishing a criminal sentence. This information is necessary to assess the relationship between penitentiary institutions within each criminal justice system, but differences in data-gathering techniques between Japan and Costa Rica impede an empirical comparison presently. Japan possesses a methodological system for data gathering that heavily emphasizes the measurement of recidivism, but the Costa Rican system lacks qualitative data on the offender population and reoffending. Because of these differences, the present investigations use the data for descriptive purposes.

3.4 On Comparative Criminal Justice

The present study uses literature on comparative criminal justice to justify the comparative approach and to find an apt methodological approach. Literature on comparative criminal justice also contributes to finding methods that encourage legal harmonization, finding innovative and tested solutions for similar problems, and standardizing the operation of criminal justice systems[9].

3.5. On International Rules

The main source of information for international rules are the Tokyo Rules and additional commentaries. The present study uses the rules to create the comparative criteria to assess the Japanese and Costa Rican parole systems and as the foundation for the

[9] See for example Constantinesco, 1974; Örücü, 2004; Schlesinger, Baade, Herzog and Wise, 1998; Zweigert and Kötz, 1998 (Smits, 2006).

peacemaking parole model. Other international guidelines and resources from the European Union, the United Nations, and the Interamerican Human Rights system support the assessing of human rights-oriented rules in the penitentiary system.

3.6 On Community-based Treatment

Japanese scholarship on community-based treatment is plentiful and addresses various areas, including specific treatment programs, intervention methods, and comparative studies. There is limited information on community-based treatment options in Costa Rica aside from institutional guidelines. Therefore, the present investigation only uses literature on international empirical studies and Japanese research on community-based treatment.

3.7 On Japanese and Costa Rican Laws

The source of information for the comparative section of the present investigation is the Japanese and Costa Rican laws. The author collected legislation on prison and parole, jurisprudence, and penitentiary guidelines from both countries and then freely translated them into English. In the case of Japanese legislation, the number of laws on parole is superior to that of Costa Rica, but in the case of the Costa Rican system, judicial rulings on the penitentiary system supply information not found in Japan.

3.8 On the Functional Approach

The present investigation uses international literature on comparative criminal justice and punishment theory to define the functional approach to penitentiary treatment. The present investigation does not replicate research based on the functional approach but considers the general principles of comparative research found in the literature to follow a functional approach.

3.9 On Peacemaking

Literature on peacemaking as a theoretical model and restorative justice literature form the philosophical foundation that guides the analysis of parole practices. In analyzing the Japanese and Costa Rican systems, the peacemaking perspective is necessary for assessing the interaction between offenders, parole offices, and social institutions.

Peacemaking literature also provides the foundation to develop a parole model that improves the limitations of current practices.

4. Methodology

The present investigation focuses on parole laws applicable to the male adult population, excluding special parole laws for females, juveniles, the elderly, and other offenders with special conditions that require a distinct approach. The sources of information are national and international laws, academic material, scientific literature, jurisprudence, and interviews with practitioners to find congruencies and differences between parole systems.

The first section of the present investigation examines parole, the Tokyo Rules, and the peacemaking approach to set the foundation for the comparative criteria. The second section describes the Japanese and Costa Rican parole systems, later comparing each system according to the comparative criteria developed in the first section. Lastly, the third section elaborates on a parole model based on the observations made in the second section and integrates them with the Tokyo Rules.

4.1 Data Collection

Literature on parole and supporting information was accessible through online resources and local libraries. In Japan and Costa Rica, public access information on parole and criminal justice is available in yearly publications and does not require special permissions to access. Similarly, legislation and jurisprudence from both countries were available online in digital format, but institutional norms and information on parliamentary discussions required special authorizations through representatives of the respective ministries of justice.

During the first stage of the investigation, online searches in public and private web services led to identifying the sources of information reviewed for the present study. Keywords used during the search were “comparative criminal justice”, “parole”, “community-based treatment”, “rehabilitation in the community”, “social reinsertion”, “penitentiary treatment”, “peacemaking”, “peacemaking and parole”, “re-entry”, “comparative parole

studies", "human rights and parole", and "social reintegration". To find local and international information, the author searched each keyword in English, Spanish, and Japanese, adding "in Japan" and "in Costa Rica" in each search to find local sources. Additionally, the websites of government agencies and public organizations related to parole supplied additional information in the form of reports for the examination.

In the second stage of the investigation, the author accumulated printed literature and contacted practitioners to conduct interviews, verify information, further identify information sources, and confirm the interpretation of laws during the translation. This stage was crucial in gaining knowledge of day-to-day practices and verifying the contents of the information acquired in the first stage. Open-ended questions incentivized a back-and-forth interaction between the interviewer and interviewees, recorded and later transcribed for analysis. The purpose of this stage was to ensure the accuracy of the information and identify sources for comparison and analysis.

During the third stage, the focus was on verifying the accuracy of the information gathered during the first and second stages. This stage involved searching for repetitive information, conducting follow-up interviews and field visits, and revising translations. The main goal of this stage was to eliminate any redundant and unnecessary information and identify sources of information for comparison and analysis.

4.2. Information Analysis

The present study divides the information between descriptive and comparative to fit different purposes. Descriptive information includes historical records, legislation, interviews, and data to supply the knowledge necessary to understand parole as an institution and a system. Comparative information includes national and international legislation to create the concrete rules that make up the peacemaking parole model. For this examination, the present investigation uses a functional approach to apprehend the processes involved in parole management and to find reintegrative and peacemaking-oriented practices.

4.2.1 The Functional Approach

The present investigation uses a functional approach to analyze the information on parole history, international regulations, and Japanese and Costa Rican laws. Relevant moments in the worldwide development of penitentiary systems led to choosing the functional approach to the comparative analysis of parole. The broadly documented history of modern imprisonment reveals that penitentiary treatment has aimed to correct offenders and protect society. For the present investigation, the mechanisms to achieve these aims form the basis of the functional approach to the comparative examination.

Functionalism traditionally refers to punishment's social function for larger societal goals. Literature on punishment theory shows that in Western Europe and North America, the rationale of punishment underwent shifts in the liberal criminal law tenets; thus, penal specialists began to work to rehabilitate the “delinquent man” and prevent crimes through law and specialized treatment (Pifferi, 2016). Whether criminal law successfully achieved the goals it set out to accomplish is not for discussion here; the fact that such goals existed and continue to exist is indicative of the social relevance placed on punishment. These movements contribute to the historical analysis of parole and the development of comparative criteria.

Currently, functionalist research separates the intended goals of social institutions from their unintended effects, showing how conflicting interests within criminal justice institutions generate functional and dysfunctional consequences (Merton, 1996; as cited in Garland, 2018). In the context of the present examination, parole’s design to reach a goal under different models defines its function. This functional approach aims to find pragmatic designs of parole systems that can promote reintegration from a peacemaking perspective.

In a narrow sense, parole's function is to find prisoners who may continue their criminal sentence outside prison walls. In a broad sense, parole serves as a balancing measure in the criminal justice system, an opportunity for discretionary officers to prevent penal excesses by addressing the individual conditions of prisoners. However, this research proposes a different approach to the functional examination of parole.

Function refers to designs and arrangements that make a goal possible, regardless of the outcome. In this sense, the function of prison is not to reform offenders but to make life in prison possible. Similarly, the function of rehabilitative programs is not to rehabilitate but to create interactions with offenders. From this perspective, the general function of parole is not to rehabilitate offenders but to make life for offenders in the community possible (Centro de Estudio de Justicia de las Américas, 2021). Whether an offender reforms or not depends on the function of concrete policies, processes, measures, events, and opportunities during parole. Therefore, the functional approach the present study promotes investigates the capability of a system to put policies and measures in place to aid reintegration.

4.2.2 The Comparative Approach

The present investigation follows a “micro-comparison” species of comparative research, studying a concrete aspect of two legal systems (de Cruz, 1999). The study aims to illustrate the different responses to parole management in two societies with distinct penitentiary models. To this end, examining Japan and Costa Rica's parole systems looks for functional equivalencies in community-based treatment programs. Functionality, as a basic methodological principle of comparative law, rests on the idea that every legal system faces the same essential problems but applies different methods which may produce comparable results (de Cruz, 1999).

For the comparison, it is necessary to find a “tertium comparationis”, a common denominator, to compare the Japanese and Costa Rican laws as the “lege comparanda”. The “tertium comparationis” can be a shared function, goal, or problem to compare each law from an objective baseline (Smits, 2006). For the present investigation, the Tokyo Rules are the common denominator for the comparative criteria for the Japanese and Costa Rican laws. After examining these rules and extracting functional comparative criteria, the present study distributes the contents of Japanese and Costa Rican laws to adjust to each comparative criterion and thus conduct the comparison.

4.2.3 Constructing A Parole Model

To find the practices that best fit a peacemaking parole model, interviews complement the results from the comparative sections, which are then subject to analysis from the perspective of parsimony.

Parsimony in the present study refers to an analytical approach that considers the necessity of restrictions in a punitive system and the practical access to benefits or services offenders have. From this point of view, the present investigation identifies concrete aspects of parole legislation that respect human rights standards, promote reintegration, and apply creative and pragmatic methods or resources to encourage community-based treatment. After analyzing and identifying the practices most conducive to reintegration and peacemaking, the last section of the present investigation proposes a parole model.

4.2.4 Limitations

The main limitation of the present investigation was that of linguistic barriers. The system-specificity of legal language makes translating legal terminology difficult (Smits, 2006). It is not just the case of translating concepts from one language to another but is also the fact that aspects of the law, particularly culturally sensitive aspects, might resist translation (Vogler, 1995; as cited in Nelken, 2010, p. 27). Technological innovations and international cooperation help communication now more than ever, and comparative efforts grow because of it, but translating legal language into ordinary words requires great care (Smits, 2006).

Legal language is complex and requires a degree of specialization to interpret legal institutions into other languages. Yet, the effort of translating is not a sine qua non-requisite for comparative studies. It should not be the desire of comparative researchers to fully understand each system but to identify how both systems might become understandable and set the parameters for future comparison and sharing of experience (Nelken, 2010).

To overcome this limitation, the author consulted with practitioners in both countries to assess the reliability of the translations. Instead of translating legal concepts to English language legal systems, the translation aimed to find comprehensible and simple concepts that could satisfy the specificity of legal languages in both countries. The author also used

legal dictionaries and translation apps to verify that the concepts would translate from the original to English and from Japanese to Spanish and backward.

The second limitation was cultural. Comparing criminal justice institutions is no easy task, even in countries with shared historical roots. Undertaking comparative research in regions with shared language, culture, and similar challenges like Spanish-speaking Latin American countries can be a complex endeavor. Even though these countries have common characteristics, researchers on criminal justice history in Latin America have pointed out that different sociopolitical processes, patterns of economic development, racial/ethnic make-ups, and experiments with punishment and incarceration can make comparative efforts challenging (Dikötter and Brown, 2007). However, comparative research is still relevant as it aims to reveal the differences between similar nations and similarities in different countries. Recognizing the qualitative differences between criminal justice systems is essential to avoid bias or misunderstanding. The author is Costa Rican and has lived in Japan for six years, which aided the information collection process, the translation of documents, and contact with practitioners. To overcome the above limitation, consultation with professionals and practitioners to deepen knowledge of the system and minimize the chances for misinterpretation.

5. Paper structure

Chapter 2 explores the history of parole, regional research trends in Latin America and East Asia, and international instruments on parole regulation to create the criteria for comparing Japanese and Costa Rican parole laws. For the selection of comparative criteria, this research focuses on the Tokyo Rules as a foundation. The reason for choosing these international rules as a reference is two-fold. The Tokyo Rules result from discussion processes between many parties, including Japan, and are helpful indicators of global trends and accepted practices. Additionally, they supply minimum standards that adapt a nation's traditions and capabilities.

Chapter 2 also defines the principle for analyzing the comparative criteria: the parsimony principle. This principle forms the basis for a functional analysis of the Costa Rican

and Japanese parole systems, looking exclusively at the capability of each parole system to promote social reintegration.

Chapters 3 and 4 present the comparative portion of this investigation. Chapter 3 examines Japan and Costa Rica's legal systems, looking into the background of the current parole system, its characteristics, and its application. Here, a presentation of each country's model will provide the basic materials for comparative analysis.

Chapter 4 takes the laws of each nation and distributes them among the comparative criteria using variables to identify similarities in the operational function of parole systems. In addition, this chapter examines the comparative criteria from the functional perspective founded on the principle of parsimony to assess the design of parole concerning the goal of social reintegration. This examination considers supporting data, literature, and experience from practitioners. Two regions selected for field activities supply the basis to analyze practical aspects of parole's operation. For Costa Rica, the community treatment offices in the Puntarenas province supply the experience from practitioners in parole supervision, while for Japan, the Hiroshima prefectural parole office supplies the experience from practitioners of the regional parole board and field officers.

Chapter 5 uses the findings of Chapter 4 to create a parole model with a peacemaking orientation based on the promotion of social reinsertion. The model incorporates the designs of both nations' parole systems while considering the limitations of each system to create a basic framework for a pragmatic application of parole.

Finally, Chapter 6 provides the final remarks and roads to reform for Costa Rica and Japan from a peacemaking-oriented parole model.

Chapter 2

Foreword

The current chapter examines parole's historical and legal origins while comparing rehabilitative and restrictive perspectives. It also explores current research practices on parole, challenges in parole management, and international regulation of early-release measures. This chapter has two objectives. First, examining the information necessary to develop the comparative criteria for parole, and second, finding an analytical logic to assess the parole systems from a peacemaking perspective.

1. Characterizing Parole

The present section explores the historical evolution of parole to find underlying characteristics in its management. This section also examines shared challenges parole systems face to identify eventual risks in a parole model. Additionally, this section describes the current state of the art on parole research in Japan and Costa Rica to reveal tendencies in parole studies and concrete approaches in community-based treatment. This investigation contributes to showing relevant areas of parole management necessary to develop a peacemaking parole model that considers historical trends, practical challenges, and theoretical backing of parole systems.

1.1. Parole

Although there are different forms of parole management, parole systems worldwide share basic traits. First, as an early-release and community-based supervision measure, parole is a "conditional release from confinement, contingent upon future conduct" (Palmer, 2010, p. 303). Secondly, from a legal perspective, parole is a form of individualization of the sanction according to punishment theory because offenders gain access to the measure based on their personal development during incarceration (Palmer, 2010). Thirdly, from an administrative perspective, parole contributes to offenders' behavior control during incarceration and after their release because its conditional nature guarantees that

reoffending or non-compliance with the rules entails prolonged periods of imprisonment (Hamin and Abu Hassan, 2012).

1.1.1 Parole in History

Parole arose as a discretionary and alternative measure in the second half of the 19th century for offenders hoping to return to society before completing the criminal sentence (Knepper and Johansen, 2016). Although there are records of early-release measures like parole in the 18th century, the direct antecedent to the modern conception of parole traces back to European and North American legal developments of the 19th century. Since then, the legal advances in these regions have become referential for future debates on penitentiary practice and parole around the globe (Pifferi, 2016).

In 19th-century Europe, the expansion of natural and social sciences gave way to a positivist criminal justice model. Positivist reformers such as Franz von Liszt rejected the perception of crime as an abstract entity, considering it a social phenomenon with complex environmental and economic roots. Instead of political and legal abstractions, positivism promoted scientific inquiry and individualized approaches to treat offenders and find solutions to the criminal problem (1894; as cited in Pifferi, 2016, pp. 19-20). At the same time, in North America, particularly in the USA, humanitarian movements of the 19th century led reform efforts to improve penitentiary facilities and reform criminal justice systems. Unlike the scientifically inspired positivist reforms in the European continent, USA reformers decried healthier prisons and better conditions for prisoners, inspired by Christian morality, which preached compassion and ‘forgiveness for sinners’ (Knepper and Johansen, 2016). Despite the differences, reformers from both sides of the North Atlantic worked toward more effective and socially conscious forms of punishing offenders, leading to joint ventures to find penitentiary models and measures to reform offenders and protect society.

The direct antecedents of modern parole were part of progressive penitentiary regimes that appeared during the positivist era, as were the cases of the Victorian-era "ticket of leave" and the Irish “stage-based inducement system”. In the latter, Walter Crofton championed this system between 1854 and 1862, which rested on the principle that prison must prepare inmates for release to protect society from future crime (Banks and Baker,

2016). Prisoners could opt for early-release under the conditions that they had good behavior during imprisonment, guaranteed compliance after release, and had proof of outside employment. The model thus encouraged prisoners to earn their way toward freedom through work and compliance with the rules, hallmarks of the progressive penology principles of the era (Banks and Baker, 2016). This form of conditional release gained scholarly support in Continental Europe and the USA, and soon countries worldwide began to include conditional release measures in their criminal legislation (Knepper and Johansen, 2016).

However, significant differences in the management of penitentiary institutions and parole arose between both sides of the Atlantic by the end of the 19th century, which continues to be influential. On the European side, positivists of sociological background promoted improving the social conditions “responsible” for crime and supported scientifically grounded procedures (Rusche and Kirchheimer, 2017). Moreover, emerging specialists in branches such as criminology, penology, and psychology claimed that imprisonment was not always necessary, and that alternative measures or conditional release could use scientific approaches to guarantee social protection (Knepper and Johansen, 2016). On the American side, progressive penologists backed prisoner reform through institutional and moral treatment, considering incapacitation as a prerequisite to offenders' examination and eventual correction. Parole assessment depended not on specialists but on agents of “provable moral integrity”, reflecting on the relevance of morality as a predictor of offender behavior in the American penitentiary development (Knepper and Johansen, 2016).

Due to the above divergence in perspectives, two significant variants or models of parole application appeared. In the USA, penologist Zebulon Brockway pioneered the indeterminate sentence system, where judges impose imprisonment in terms of ranges and parole boards decide the sentence's length (Berman, 2017). In Continental Europe, where theories of individualization of punishment and positivism had a firm grip on criminal theorists' minds, the approbation of parole became the responsibility of judicial authorities of scientific expertise. The discussions between both sides reached international dimensions during the international criminal justice congresses of the late 1890s, where nations taking part in these events would model their parole systems after one of the two sides of the argument. (Knepper and Johansen, 2016). In the decades that followed the discussions, English-speaking nations

would follow the USA's parole model, but Asian and Latin American nations mostly followed the Continental Europe model (Knepper and Johansen, 2016).

1.1.2 Parole Systems

As seen in the earlier section, irreconcilable differences in applying parole appeared between the two sides of the North Atlantic. The arguments revolved around the suitability of parole boards to perform the function of parole assessment or whether assessments should happen in courtrooms with similar procedural standards to criminal courts (Reitz, 2012; as cited in Pifferi, 2016, p. 258).

On the American side, proponents of the parole board declared that the Executive was the proper branch to exercise control of early-release measures. The supervision of prisons rested in the hands of administrative officials with exclusive control over prisoners. The criminal sentence emanated from the Judiciary, but punishment was the responsibility of administrative institutions. As such, although parole boards could not change the contents of judicial rulings, they could vary the place of execution if parole board representatives continued the offenders' supervision. At first, the USA created a board of guardians to delegate the function of parole advisory. The members of these boards relied on extra-legal expertise to decide whether a prisoner could live in the community with minimal risk. This system incorporated physicians, educators, business owners, community leaders, and people distinguished for their moral integrity, who worked as volunteers and not public officers (Pifferi, 2016). The American parole model of executive control through parole boards continues to enjoy support in nations such as Japan, South Korea, England, Wales, Canada, and Belice.

In Continental Europe, proponents of parole systems favor Judiciary control systems to dictate and change sentences. In this system, administrative authorities request parole to tribunals that will evaluate and approve the viability of the measure, applying stricter limitations to the discretionary role of parole. Nowadays, European countries such as Portugal, France, Belgium, Spain, Italy, and Germany use a system of specialized tribunals or criminal courts, and countries in Latin America such as Costa Rica, Mexico, Guatemala, Honduras, and El Salvador have also adopted similar courts.

Other countries have used various forms of discretionary release involving a mixed approach between the Judiciary and discretionary administrative authorities. For example, before applying the judicial parole model, Spain adopted a progressive model of intermediate liberation. Prisoners who showed good conduct, labor performance, and a favorable assessment from the prison warden received parole (Prado, 2013; as cited in Garcia, 2015, p. 17). In Sweden, the penitentiary system introduced an automatic parole for the general population (Garcia, 2015). England and Wales applied a mixed parole system before the 2003 reform, where prisoners with longer sentences were subject to discretionary parole, and those with shorter sentences were subject to automatic parole (Cid and Tébar, 2010; Tubex and Tournier, 2003; as cited in Garcia, 2015, p. 28). Even in the United States, where statutes control the time of eligibility for parole, some states still apply automatic parole for an established minimum prison term (Palmer, 2010).

1.1.3 Theories on the Character of Parole

Modern discussions on parole center on evidence-based intervention models and decreasing recidivism rates. Yet, current theories on parole remain attached to the 19th-century precepts of individualization and rehabilitation as the basis for parole.

The principle of individualization of punishment led to comprehensive reforms in criminal justice systems worldwide[10]. This principle tailored penitentiary treatment to fit offenders' unique physical and social conditions, balancing social protection and rehabilitation efforts (Pifferi, 2016). However, the experience of putting the individualization principle into practice varied between hemispheres, with private agencies driving the USA's approach toward a humanitarian and religious focus, while Europe relied on scientific advances and administrative agencies (Parmelee, 1908, Pifferi, 2016, p. 43).

The divergence of interpretation of the principle of individualization changed the discussions of parole as a right or benefit. On one hand, some systems regulate access to parole investigation as a right, and systems that grant parole as a right. On the other hand,

[10] According to Saleilles's distinction (1911; as cited in Pifferi, 2016, p. 21).

in systems that set up parole as a benefit, the law does not guarantee parole or its assessment.

Systems that regulate parole as a benefit consider it a discretionary administrative act that does not create entitlements for offenders. For instance, the privilege theory holds that parole is an act of grace by the state, and as a result, there are no rights attached to it even after release (Palmer, 2010). This theory was popular in the USA until the 1980s when prison administrators used parole as a stimulus for good (Palmer, 2010). However, under the privilege theory, the control of parole boards over offenders had no limits. Most significantly, the privilege theory ran in opposition to the theory of rights as the foundation of the state and citizen relationship, the theoretical support for systems that regulate access to parole as a right, because it creates a space within the law where administrative authorities could freely exercise power without any form of control (Palmer, 2010).

The second theory relevant to understanding parole as a benefit is the formulation that derives from contract theory. This theory works on the assumption that prisoners function as agents in a contractual relationship and, therefore, the benefits received from parole are only valid if they abide by the rules of the contract. Proponents of this theory argue that parole is contingent upon the prisoners' acceptance of the conditions necessary for the approval of parole and on the parolees' respect of the release conditions, thus constituting a contractual obligation. Not living up to prison regulations and breaking the conditions of parole is a "breach of contract" that justifies the revocation (Palmer, 2010, p. 314-315). However, critics have pointed out that contract theory does not fit parole's reality because offenders have no bargaining power; hence, consent is not voluntary (Palmer, 2010). More importantly, this theory does little to clarify the position of parolees as free agents because civil law limits contractual engagements under coercion.

Another theory is the “continuing custody” theory, which argues that parolees are still in the custody of penitentiary authorities[11]. From the perspective of this theory's supporters, parole is another form of institutional control. Parolees are subject to restrictions, although to

[11] This position garners the strongest support among Japanese researchers such as Fujimoto, 2008; Ohtani, 2012; Yoshinaga and Hayashi, 2004 (Hazama and Katsuta, 2013, p. 347).

a different degree than imprisoned individuals. Therefore, parole is a benefit like those granted to prisoners in low-level security prisons. Parole has no rights attached to it except those regular prisoners already receive. Despite the continued relationship between offenders and administrative agents, critics argue that the situation of parolees is distinct from that of a prisoner (Palmer, 2010). Thus, applying the same prison standards to parole contradicts the differences in approach and goal of both modes of supervision.

The most recent theoretical development on parole does not challenge its character as a benefit but looks to apply procedural practices that benefit prisoners and parolees. This approach to parole rejects the earlier theories and emphasizes fairness. Arbitrariness affects the perception of the just operation of criminal justice institutions, reducing the efficacy of parole as a socializing measure (Palmer, 2010). Emphasizing fairness as a general principle of all procedures within the criminal justice system acknowledges that proper treatment is the best way to serve the interests of the penitentiary system (Palmer, 2010). This approach recognizes the fundamental rights of parolees concerning the requirements of due process in parole assessment and other guarantees within the parole system.

1.1.4 Theories on the Role of Parole

Traditionally, scholars attribute two main roles to parole. The first is the surveillance and control of parolees (Hamin and Abu Hassan, 2012). The second is the support of parolees through social work-oriented practices and community contact. These functions form the basis of parole systems throughout the planet, but not all systems grant the same relevance to each function.

The role of parole depends on the supervision model adopted in each nation. For example, in the USA, parole originated from the rehabilitative ideal that sustained the indeterminate sentence system. Parole, reformers said, aided in the rehabilitation and reintegration of the prisoner back into society. In the first stages, surveillance in the community depended on volunteers, but in later stages, this responsibility rested in the hands of clinical agents of rehabilitation during the implementation of the clinical model of penology (Morgan and Smith, 2005; as cited in Hamin and Abu Hassan, 2012, p. 327). After the decline of the rehabilitative ideal and following the implementation of the just deserts model, parole

in the USA shifted from helping and counseling prisoners to managing risk and conducting surveillance (Seiter, 2002; as cited in Hamin and Abu Hassan, 2012, p. 327).

Regarding the role of surveillance, law enforcement plays a key part in easing public fears. In prisons, surveillance controls prisoners' activities, relationships, and habits. Parolee supervision is, from a law enforcement perspective, at its core not unlike the supervision of prisoners (Abadinsky, 2009; as cited in Hamin and Abu Hassan, 2012, p. 327). Surveillance and monitoring are necessary to remind parolees that they are still in the custody of the authorities and guarantee that penitentiary authorities are paying close attention to risky subjects. Such risk-controlling strategies aim to mitigate the potential of reoffending through direct supervision. In recent years, technological advancements in electronic surveillance have contributed to the control role[12], aiming for absolute control of parolees.

The support role refers to the availability of outside resources that contribute to the betterment of the offender and provide opportunities for offenders to integrate into the community, complementing community surveillance with social services (Danduran et al., 2008; as cited in Hamin and Abu Hassan, 2012, p. 327). Support may take shape in the interaction with community and nonprofit organizations, medical services, educational institutions, employers, and even family members. The roles of surveillance and support can fully complement each other in systems where community supervision supplies social services while attending to control functions, an amalgamation that appeases the social reinsertion and public protection requirements (Abadinsky, 2009; Dandurand et al., 2008; as cited in Hamin and Abu Hassan, 2012, p. 327). Support promotes the presence of a diverse cast of supervisors, the availability of supporting institutions, and the discretionary capabilities of parole officers, thus fortifying the parole system's capabilities to conduct its functions (McGarry, 1989; as cited in Hamin and Abu Hassan, 2012, p. 328). A support-oriented model considers parole in conjunction with other social services, focusing on the client's needs, such as employment, housing, and counseling (Abadinsky, 2009; Dandurand et al., 2008; as cited in Hamin and Abu Hassan, 2012, p. 327).

[12] See Burnett and Maruna, 2006 (Hamin and Abu Hassan, 2012, p. 327).

1.2 Challenges in Parole

From early on, parole as an executive measure has been the target of criticism and praise – rejected as a soft-on-crime approach and elevated as a corrective tool for justice. Historical examples suggest that during the peak of the rehabilitative ideal countries often promoted parole as a support institution to aid offenders' return to the community (Padfield and Maruna, 2006). Based on this tradition, the present investigation supports the notion of parole as a measure for the social reinsertion of the offender with positive social effects.

However, on a global scale and particularly in English-speaking nations, reforms have impaired the ability of parole supervision to rehabilitate offenders. The targets of reform have been the discretional capabilities of parole agencies, resulting in a reduction in the number of prisoners who receive conditional release and an increase in the number of recalls (Padfield and Maruna, 2006). Such policies, research suggests, are related to public sensitivity and insecurity toward community surveillance, which impairs the reinsertion process rather than ensuring the protection of the public (Reitz, 2004; as cited in Padfield and Maruna, 2006, p. 338).

International reforms to decrease the capabilities of parole systems arose from criticisms against the perceived ineffectiveness of parole authorities and the lack of clarity of parole laws. Based on a general overview of parole trends, the present study finds four main challenges facing parole systems globally: Challenges in rehabilitation, normative challenges, challenges in perception, and challenges in application.

1.2.1 Challenges in Rehabilitation

According to Pifferi (2016), notable reforms in parole's role as a rehabilitation tool happened during the second half of the 20th century. Often these reforms took place in the USA but had wide-ranging consequences in systems aligned with the American parole model. The main premise of the American indeterminate sentence and parole model was that offenders should remain in prison until they are rehabilitated. Scholars and courts considered that external agencies were in a better position to judge the conditions of prisoners, and thus had sufficient knowledge to decide when imprisonment was no longer necessary. However, shifts in American criminal justice policies culminated in a revision of the function of parole

and its abolition on a federal level. Closer examinations of the parole systems' management revealed that parole boards had unparalleled discretionary powers and applied their discretion arbitrarily, at times granting parole automatically after the minimum term of detention without proper studies to support the measure (Pifferi, 2016).

According to Berman (2017), leading up to the 1970s, suspicious attitudes toward offender rehabilitation and increasing unease about the discretionary powers of parole boards motivated calls for reform. Reformers who supported parole argued in favor of keeping a discretional parole model, but they also recognized that it was necessary to introduce changes to improve the reliability of the system. Parole board officers recommended applying fixed and consistent sentences, as well as clear parole conditions to create fairer assessment procedures. However, critics against the discretionary parole model gained strength in policymaking circles, culminating in the federal abolition of parole.

The Sentencing Reform Act of 1984 replaced the indeterminate sentence model with a regime of determinate sentences and sentencing guidelines. Following this reform, public trust toward parole decreased to the point that since then at least sixteen states have abolished parole in its entirety (Berman, 2017; Palmer, 2010; Southern Center for Human Rights, 2015). After 1984, parole standards in the USA began to apply stricter and control-oriented parole assessment procedures, curtailing prisoners' position in the evaluation of parole investigations. Prisoners cannot appear before parole boards or argue for their cases, have no access to information about the parole process of the final decision or a right to review, and are ineligible for parole depending on their criminal record (Southern Center for Human Rights, 2015).

Emphasis on risk assessment has also minimized the rehabilitative role of parole, often without considering support resources and placing the responsibility of finding employment and housing solely on the prisoner (Southern Center for Human Rights, 2015). More importantly, in the decades that followed the reforms, legal scholars have argued that the ability of penitentiary agencies to remedy unfair judicial practices through parole has diminished considerably (Berman, 2017).

The American turn toward a more repressive application of parole inspired similar reforms in countries where sectors critical of early-release measures and rehabilitation gained prominence. However, in other regions, the criticisms against parole led to calls to improve it rather than remove it. For instance, international organizations have a key role in supporting the implementation of community-based measures that emphasize the supporting role of parole agencies.

Organizations such as UNAFEI and the Council of Europe use empirically supported research to sustain their recommendations and reform. These reforms focus on creating socially positive environments for parolees without putting public safety at risk, emphasizing social reinsertion, protecting parolee rights, and guaranteeing support conditions in the community to reduce reoffending and the operational cost of the criminal justice system (UNAFEI, 2021). According to international human rights organizations, community-based treatment, when appropriately balancing the need for surveillance and support through collaboration between criminal justice agencies and community resources, can contribute not only to offender intervention but can also improve general social conditions and prevent punitive excesses (UNAFEI, 2021).

1.2.2 Normative Challenges

The legitimacy of criminal sentencing depends on the judiciary's independence from other political branches of government. Independence guarantees an "unbiased and objective assessment of the legality of the acts and decisions of the executive" (Feldman, 2006; as cited in Padfield, 2007, p. 45). Objective and independent actors are essential in a democratic framework, particularly concerning restrictions on personal freedoms and recognized rights. For similar reasons, the conditional release of prisoners should rely on independent actors (Padfield, 2007).

When parole agencies lack independence, they become susceptible to external influence or dependent on other penitentiary agencies to conduct their functions. On the other hand, minimizing the level of independence and discretion of parole officers can have a negative impact. Imposing strict criteria makes officers risk-averse, favoring caution over

negative attention (Padfield and Maruna, 2006). Tougher stances on penitentiary policies can also lead to gradual decreases in community supervision and treatment quality.

Even in the presence of an independent body for parole assessment, lack of clarity in the regulation of procedure and vagueness of terminology might contribute to failures in parole assessment. Subjective qualifications that might be valid in disciplinary contexts, such as drug addiction, need a legal equivalent that delimits the range of interpretation and their usefulness in parole assessment (Padfield, 2007). For instance, one of the sources of conflict between the English Home Secretary and the Parole Board in the 1970s was the lack of assessment criteria (Knepper and Johansen, 2016). In such cases, high degrees of independence without clear legal limitations create the conditions for unequal parole applications. Currently, civil rights advocates and supporters of prisoner reinsertion have accused excessive discretion without external control or procedural restraints as one of parole's most critical issues (Knepper and Johansen, 2016). Lack of representation for prisoners and accountability for officials results in abusive practices that impair parole operation and contribute to excessive incarceration.

Excessive independence and discretionary power of parole agencies without clear criteria can turn the parole system into an abusive institution. Critically, the issue of discretionary power has received attention since the expansion of parole in the late 19th century. For example, in the case of the USA, the Supreme Court found the operation of parole boards unconstitutional, endangering the separation of power principle. The lack of due process, undefined discretionary power of boards, and no proper definition of conditions necessary for parole and community surveillance were the main reasons for criticism. Leaving prisoners without the right to remedy by the court and without clear conditions for parole turned prisoners into "servant(s) and slave(s) of the prison board"(People v. Cummings, 88 Mich. 249, 1891; as cited in Pifferi, 2016, p. 69).

The criticism against lack of normative clarity and excessive discretion rightly points to the legitimacy of administrative institutions. In the penitentiary system, prisoner rights are subject to limitations that require clear justification. Yet, because most countries regulate parole as a benefit, it is a customary practice that prisoners are not subject to due process considerations, thus they do not receive vital information about parole investigations and

have no possibility of representation. However, critics point out that due process considerations are not necessarily exclusive to judicial decisions; every public body charged with making decisions that affect individual rights must abide by the principles of fairness that due process promotes (Padfield, 2007). State actors must set up clear, logical, and legally founded reasons to justify a decision, and create procedural criteria whenever the limitation of fundamental rights is at stake.

Without proper controls, parole operations can negatively affect community-based treatment and generate public distrust toward the criminal justice apparatus. A 2007 report by the UNODC stated that parole can undermine the authority of tribunals and public trust when control mechanisms are weak. Further, whenever the operation lacks clear sets of conditions for approving early-release, parole can endanger the protection of the public by not ensuring proper assessments and harm prisoner rights by being arbitrary. As a solution, the UNODC recommended that states set up specific time limits for the application of parole, facilitate contact with the community, and set objective criteria for the concession of parole (Garcia, 2015). Applying such measures can create fairer parole systems, ensuring that parole assessment processes abide by the due process standards necessary in every interaction between citizens and the state.

1.2.3 Challenges in Perception

Although the present investigation supports parole as a measure that can contribute to decreasing the prison population, critics have correctly pointed out that using early-release measures such as parole does not guarantee a significant reduction in the prisoner population (Gottschalk, 2014; as cited in Garland, 2018). Merely promoting parole without community participation or strict controls may increase recalls and reoffending, reducing parole effectiveness as a social reintegration measure.

Public perception of parole measures as sources of insecurity has affected criminal policy since the 19th century, as was the case of the moral panic in response to the expanded application of the “ticket of leave” in Victorian England (Banks and Baker, 2016). Public responses can significantly affect parole application and turn it toward punitiveness. In the USA, for example, parole officers in New York, where parole measures received strict public

scrutiny, referred to parole as 'incarceration in the community', rather than measures of community reinsertion under surveillance (Francois, 2019). In such cases, even minor infractions of parole conditions can lead to prison recalls.

Furthermore, strengthening the support role of parole does not guarantee the application of rehabilitative programs. Caplan, for example, suggested that combining the operation of rehabilitation and surveillance in a single officer creates a confusing situation for parole officers and results in a weak collective consciousness of what the role of parole ought to be. Caplan also states that "when the pendulum of public support gains momentum toward surveillance and risk management, it is difficult for parole officers to resist this supervision approach" (2006; as cited in Hamin and Abu Hassan, 2012, p. 328). In such cases, parole officers find it challenging to achieve the dual goal of reinsertion and surveillance [13]. Whenever there is a lack of clear legal mandates or when the operation of parole is subject to intense public scrutiny without clear communication strategies, parole officers favor compliance-oriented practices (Hamin and Abu Hassan, 2012).

Despite the low recidivism rates of parolees in most jurisdictions, the social impact of reoffending can lead to severe criticisms of the penitentiary system. For example, recidivism rates in sexual offenders are significantly low, but cases of reoffending have repercussions for the victim and the public. Moreover, using recidivism rates as evidence to support parole applications is not necessarily a convincing argument against popular backlash. In a 2004-2005 report, the English Parole Board pointed out that the citizenry is more likely to judge the parole system by the number of parolees who fail rather than those who successfully reintegrate (Padfield, 2007). Cases of recidivism during parole garner much negative attention, especially in cases of dramatic violence[14]. Popular demand can result in criminal justice reforms that overly emphasize retributive justice as opposed to rehabilitation or social

[13] See Brown et al. 2007 (Hamin and Abu Hassan, 2012, p. 328).

[14] For example, major news coverage critical of parole preceded the process of reform leading up to the Criminal Justice Act of 2003 of England and Wales (Padfield, 2007).

reinsertion. Such policies favor risk assessment as the exclusive prerequisite for granting parole[15].

However, using public safety arguments to delay the release of prisoners who pose minor risks is contrary to the interests of society. Continued imprisonment is costly and can deteriorate the condition of offenders to the point that incarceration increases the risk of reoffending after release (Padfield, 2007). A challenge of parole systems is introducing policies that balance prisoners' needs and public safety. Analyzing the merits of parole must consider numerous factors to function as a balancing measure within the criminal justice system. Taking this position as excessively favorable to offenders over public safety does not consider that imbalance in the criminal justice system is detrimental to the public interest. The measures designed to meet the aims of upholding public safety must be, at a minimum, “rationally connected” in a straight manner and legally justified (2007). Therefore, any measure that restricts access to parole must be proportionate to the necessity of continued imprisonment vis-à-vis public safety.

1.2.4. Challenges in the Application

Asserting that early-release measures can work as reintegration measures must also consider criminal justice institutions' operational ability and structure. The ideas that supported parole in the early 19th century and the mid-20th century aimed to “correct” prisoners, but correctional commitment did not create effective and widespread services in the community (Pifferi, 2016; as cited in Garland, 2018a, p.20). Insufficient resources can cause rehabilitation models to become poorly managed, resulting in a feedback loop of increased reoffending and recall due to lack of support during extended prison time. (Padfield and Maruna, 2006).

Despite the advantages of parole as a social reinsertion measure, if early-release measures do not contribute to reducing imprisonment nor create a support system for offenders after leaving prison, community-based measures can have a “net-widening” effect

[15] The Criminal Justice Act of 2003 of England and Wales is one such example (Padfield, 2007).

(United Nations, 1993, p. 7)[16]. Net widening carries the attitudes of prison to the community, transferring the qualities of imprisonment beyond prison walls to the community setting and implementing a system of extensive control, permanent supervision, and enclosed order without the opportunity for independent growth[17].

According to Francois (2019), problems in parole relate to the principle of less eligibility. In many countries, former prisoners face discrimination and have few opportunities to find employment after imprisonment. In the USA, for example, former offenders face increased health risks and homelessness after prison; more than half of released prisoners return to prison within three years. Policies that severely restrict parolees' access to community resources or do not promote community participation make reinsertion processes difficult and can directly impact recall trends.

In response to the challenges of community-based treatment, recommendations by the Council of Europe state that simple measures can significantly improve the operation of parole without sacrificing prisoners' welfare or public safety. Parole systems benefit from collecting information at the earliest possible stage, which gives officers time to get to know offenders before the parole investigation. Further, clear and realistic criteria for parole assessment can help prisoners' rehabilitation, giving them concrete goals to pursue during incarceration and motivating their participation in treatment programs, thus improving the effectiveness of community-based treatment (Garcia, 2015). Moreover, empirically evaluated and legally supported intervention programs that consider the participation of community agencies give parolees the motivation necessary to face the reinsertion process (Hamin and Abu Hassan, 2012)[18].

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[16] In 1985, Cohen named the "net-widening" effect as a negative consequence of penal excesses in the community (As cited in Garland, 2018a, p. 12).

[17] Very much like the goal of punishment went from the suffering of the body to " the submission to an extensive and regulatory control, an uninterrupted mode of surveillance, to an enclosed moral order without emptiness or unutilized space." (Darke et al., 2021, p. 43).

[18] Research shows counterproductive results in community treatment programs that depend exclusively on parole officers to conduct rehabilitation activities without incorporating third parties or without

Another challenge in parole is the use of restrictive risk assessment models. In some jurisdictions, parole models have moved towards what Jonathan Simon calls the “waste management model”, which emphasizes risk repression rather than reformation, offender management and classification rather than rehabilitation, and favor risk management through statistical prediction (1993; as cited in Padfield and Maruna, 2006, p. 329). These models relate to the theoretical model of actuarial penology, which implements behavior prediction technologies based on group characteristics (Hardcourt, 2008; as cited in Garcia, 2015, p. 19). However, critics point to the lack of perceivable impact of such programs in predicting recidivism and reproducing discriminatory practices embedded in criminal justice institutions (Padfield, 2007).

Importantly, international experience points to the relevance of assessment tools not exclusively based on prior offenses, such as the risk-needs-responsivity models (UNAFEI, 2021). Empirical studies show that monitoring offenders' compliance without other forms of support and limiting the role of parole officers to that of “prison guards in the community” are insufficient and counterproductive. Effective parole systems involve "managing the offenders’ risks, coordinating resources to meet their needs, and developing and maintaining a trust-based human relationship with them" (UNAFEI, 2021, p. 16). Empirical research also suggests that supervision benefits parole officers who can develop relationships with parolees and community services[19]. To establish effective relationships, parole officers must integrate into the communities and possess clear conflict management mandates.

1.3 State of Parole Research in Japan and Costa Rica

The examination of parole in Japan and Costa Rica yields different results. In Costa Rica, there is little to no research on parole, but in Japan, there are examples of investigations on an academic and operational level. Japan has organizations dedicated to examining parole and community-based treatment, which do not exist in Costa Rica. The present investigation finds that the differences in parole research are related to the criminal

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assimilating the rehabilitative program into the general correctional operation (Hamin and Abu Hassan, 2012, pp. 329-330).

[19] See Chadwick, Serin and Lloyd, 2020; Haas and Smith, 2020; Trotter, 2020 (UNAFEI, 2021, p. 34).

environment, politics, and academia. In Costa Rica, the issue of prison overpopulation has taken a substantial part of political and academic interest. As a result, the Costa Rican section does not include examples of research on parole, but the Japanese section shows the contemporary trends in parole research from an examination of a collection of parole-related research in academic journals.

1.3.1 Challenges in Parole Research in Costa Rica

Regional research points to Costa Rica as a positive comparative example of human rights-oriented policies in the penitentiary system. The legal protection of prisoner rights and the high degree of professionalization of technical officers within the penitentiary administration are two characteristics of the Costa Rican penitentiary system that distinguish it from other countries in the region (Carranza, 2012). Despite this assessment, for the past twenty years, prison overcrowding and the deterioration of penitentiary institutions have become the largest issues in Costa Rica's criminal justice system (Bedoya, 2022).

Costa Rican researchers are concerned about the political aspect of imprisonment resulting from excessive punitiveness (Feoli and Gómez, 2022). Academics point to criminal justice reforms of the past thirty years for the deterioration of the penitentiary system; these reforms increased imprisonment terms and judicial procedures but ignored prison (Bedoya, 2022). Research calls for comprehensive reforms to the entire criminal justice apparatus, including creating alternative sentences and community-based programs (Javier, 2016). Despite the criticisms, there is little initiative to assess or study the parole system. Rather, researchers focus their efforts on the problem of prison overcrowding and the social causes that created it (Bedoya, 2022).

Researchers' emphasis on overcrowding relates to Costa Rica's active participation in the regional human rights system (Feoli and Gómez, 2022). Costa Rica's position as a host of two of the most important regional institutions, the Interamerican Human Rights Court and the Latin American United Nations Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD), influences the direction researchers take toward the analysis of criminal justice challenges, stressing a regional approach to solve issues most nations in Latin America share.

The relationship between criminal justice policies and prison overcrowding in Latin America garners attention in comparative research and intra-regional comparison. Regional organizations point to elevated levels of social inequality, increasing crime rates, and increased use of imprisonment as the determinant factors of prison overcrowding in the region (Carranza, 2012). ILANUD has studied the relationship between inequality and higher rates of homicides and property crimes in the region, and it has insisted that reducing inequality is paramount to reducing criminality and prison population (Carranza, 2012). As a result, although ILANUD has recommended expanding the use of early-release measures, researchers in the region concentrate their attention on preventive social policies (Rodríguez, 2011).

Lastly, data gathering and data publication in Costa Rica limits its approach to analyzing the condition of prison overcrowding. Reports from the Ministry of Justice supply little insight into the operation of penitentiary institutions, and little public information is available to study the day-to-day operation of the parole system[20]. These limitations in data management and publication have far-reaching effects because, as officers from the ministry have indicated, the lack of comprehensive information is one of the main challenges in public communication and academic research (Camacho, 2023).

1.3.2. Research in Japan

During the preparatory stages for the present investigation, the sources and documents revealed the critical gap in scholarship between Japan and Costa Rica. In the case of Japan, sources include academic textbooks, case studies, empirical research, comparative examinations, and explanatory documents, in addition to the readily available data from the Ministry of Justice and laws. A preliminary analysis of the recent Japanese sources uncovered that recent investigations emphasize practical elements of the current system.

Academic and private organizations contribute to the scholarship on parole. Key organizations fund magazines dedicated exclusively to the topic of community supervision

[20] For example, annual reports focus on institutional data but supply little analytical content.

and organize discussions accessible to the public. Research from these organizations and high-level academic investigations make it possible to find trends in parole studies for the past fifteen years. The latest trends in parole research emphasize recidivism prevention techniques, specialized treatment of offenders, and community supervision through volunteers. These investigations also reveal policy concerns and the challenges in the operation of community surveillance.

Research on parole in Japan is extensive, delving into the practical application of parole and treatment programs during community supervision. Table 1 shows the main trends in parole research, distributed into four research areas: Research on treatment, research on the faculties of early-release, research on community participation, and research on parole officers.

Table 1. Distribution of research on parole in Japan.

	Research in Japan
Research on treatment[21]	- Research on treatment in Japan focuses on special programs for offenders with addiction problems, a history of violence, physical, or mental disabilities. - Since the mid-2000s, research has supported the Risk-Need-Responsivity model, Good Lives model, and Cognitive Behavioral Therapy. The Ministry of Justice introduced these treatment models based on comparative research that took in from the experiences of countries such as Canada and Great Britain. - More recent research emphasizes the treatment of reoffenders through the application of support measures. Analysis of the current treatment models also investigates the connection between recidivism and the support of community organizations, and the application of housing and employment measures. - Japanese researchers also take steps to assess the effectiveness of legal reforms to the community-based supervision system and the law that introduced split sentences.
Research on faculties of parole[22]	- Research in this area examines the available methods for the assessment of parole, the application of community supervision, and the participation of welfare policies to support offenders at once after release. - On a comparative level, studies on the faculties of parole look toward systems that promote welfare-oriented practices rather than control-oriented systems. - The reoffending preventive faculties of parole garnered the attention of researchers, especially after policy reforms in the past decade that emphasized the prevention of recidivism. - The measurement of effective policies considers the capability of regional, state, and private organizations to supply housing, employment, and other necessary resources for parolees to reintegrate into the community and avoid reoffending. - Recently, researchers have also investigated risk assessment tools, the study of static and dynamic risk assessment tools in the parole system. Parole officers use these tools not to decide the possibility of parole but to decide the conditions necessary for community supervision.

[21] See Bonta, 2012; Hidesato and Kazunori, 2014;Izumi, 2011; Katsuta, 2016; Masaki, 2008; Morita et al., 2019; Someda, 2011; Takahashi, 2017; Tamaki, 2012; Watanabe, 2020; Ward, 2012.

[22] See (Hazama and Katsuta, 2021); (Hiroyuki, 2014); (Konagai et al., 2010); (Makoto, 2016); (Masatoshi, 2012); (Ohta, 2012); (Shoji, 2013).

Research in Japan	
Research on community participation[23]	- Research on community participation revolves around the use of voluntary officers in community supervision and support. Their operation is under constant evaluation by national researchers. - Internationally, these volunteers garner attention due to their uniqueness and there are examples of foreign researchers who travel to Japan to study the use of volunteers in community-based treatment. - In addition, other forms of voluntary associations, such as organizations of employers also receive the attention of academics interested in the insertion of offenders in the labor market.
Research on professional officers[24]	- Investigations on professional officers' work focus on the function of parole officers after the legal reforms of 2008 which introduced a new regime of community supervision. - Research takes into consideration the responsibilities of officers as supporters of parolees. - Recent studies have emphasized the development of community networks and cooperation with welfare institutions and assess the capabilities of parole officers under the new system.

Note: For sources, see Footnotes 21, 22, 23, and 24.

[23] See Hamachi, 2012; Itaya, 2010; Kamiichi and Sanui, 2019; Yoshida, 2012.

[24] See Ikoma et al., 2009; Ikushima, 2009; Miura, 2010; Nakamura, 2017.

1.4 Characteristics of Parole in the Japanese and Costa Rican Neighborhoods

Examining the immediate neighborhood of Japan and Costa Rica shows regional traits in parole. In Central America, parole agencies belong to the Judiciary, but East and Southeast Asia nations favor executive supervision through parole boards. Moreover, there are regional similarities in the implementation of community supervision. The use of volunteers for community supervision is common in Southeast Asia. Malaysia, the Philippines, the Republic of Korea, Singapore, and Thailand use volunteer systems like in Japan (UNAFEI, 2021). In the case of Central America, countries implement similar supervision mechanisms based on police surveillance.

In Latin America, researchers support the relationship between parole and rehabilitation. Urbano Martín labeled parole as an early-release measure for prisoners who have shown the preparation for an honest and efficient life through education and work (CIJUL, 2011, p. 5). Thus, parole tests the success of offenders' reeducation by placing them in the community for the rest of the sentence. Eugenio Cuello Calón stated that parole is an excellent means for reform, aiding the offenders' efforts toward correction and putting in their hands the key to their return to the community (CIJUL, 2011, p. 5). Pedro Dorado thought of parole as a tool to balance society's rights and prisoner rights, where judges and administrative officials, representatives of society, must evaluate prisoner adaptation and vary the sentence if offenders have rehabilitated (CIJUL, 2011, p. 6).

In East Asia, nations have supported the rehabilitative properties of parole and promoted it as a social reinsertion tool internationally. For example, UNAFEI led the development of the Tokyo Rules, creating a basic framework for community-based measures that motivate prisoner treatment (2021). Importantly, members of UNAFEU with experience in the parole system regularly visit neighboring regions to promote the use of early-release policies and study the implementation of parole from the perspective of the Tokyo Rules (Otsuka et al., 2022).

Table 2. Parole systems in Central America.

Country	Prerequisites	Imprisonment terms	Branch responsible for approval
Belize	- Study that takes into consideration: a. Consideration of public safety. b. Statement by the victim. c. Offenders' welfare. d. Offenders' probability of reoffending. e. Offenders' response to supervision.	- The court fixes the term in the case of life imprisonment for murder. - Assessment after fifteen years of life imprisonment sentence. - Assessment after half of the sentence for serious offenders. - Assessment after one-third of the sentence for lesser offenders.	- Administrative authority
El Salvador	- Good behavior and work habits. - A Positive assessment by a Regional Parole Council. - Minimal risk of reoffending. - Satisfaction of civil liability.	- Assessment after half of the sentence. - Assessment after one-third of the sentence for elderly offenders with a debilitating condition.	- Judicial Authority
Guatemala	- Low-risk classification in the penitentiary system. - Good behavior. - Satisfaction of civil liabilities. - No history of reoffending unless the first sentence was for less than three years.	- Assessment after half of the sentence for terms between three and twelve years of imprisonment. - Assessment after three-fourths of the sentence for terms over twelve years.	- Judicial authority
Honduras	- First-time offenders. - Good behavior. - Work habits. - Show of remorse. - Demonstration of desire to reform. - Satisfaction of civil liability.	- Assessment after half of the sentence for terms between three and twelve years. - Assessment after three-fourths of the sentence for terms over twelve years.	- Judicial authority

Country	Prerequisites	Imprisonment terms	Branch responsible for approval
Nicaragua	- Positive assessment of conduct. - Positive prognostic of social reinsertion. - Positive behavior in prison. - Availability of outside resources. - Minimal reoffending risk. - Not applicable for sexual offenses against minors	- Assessment after two-thirds of imprisonment term for less serious crimes. - Assessment after three-fourths of imprisonment term for serious crimes.	- Judicial Authority
Panama	- Prisoner in lower levels of containment. - Positive institutional assessment - Good behavior - Show of readaptation possibility.	- Assessment after two-thirds of the sentence	- Administrative authority

Note: The table uses online information from the Ministry of Justice and Criminal Codes of each nation.

Table 2 presents the main traits of parole approval in Central America. Except for Belize and Panama, all other nations in the region support a judicial model of parole. Belize's parole system shares more similarities with the American Parole Board model, for example, partially restricting access to parole for certain crimes and considering the victim's statement during parole assessment, like in the US system. In the rest of the region, terms of imprisonment before the assessment of parole are high on average, with the lowest terms reserved for elderly prisoners or offenders with short sentences. All nations in the region show clear criteria for the approval of parole, but only Nicaragua considers the presence of outside resources as a prerequisite.

Table 3 presents the main traits of parole in the East and Southeast Asian region. Except for China, the countries examined apply an executive model of parole due to the historical influence of the USA and Great Britain in the region. Out of all the nations, the Philippines applies the most restrictive model, only making it available for indeterminate prison terms and reducing the criteria for assessment to judicial conditions. The criteria for parole approval vary based on indeterminate sentences and reoffender status. Most nations consider offender remorse as a prerequisite for parole evaluation, but only one considers community resources as a prerequisite.

Table 3. Parole systems in East Asia.

Country	Prerequisites	Imprisonment terms	Branch responsible for approval
China	- Observation of prison regulations. - Acceptance of education and reform. - Signs of repentance. - No risk of recidivism. - Not available for certain crimes.	- Assessment after thirteen years for life imprisonment sanctions. - Assessment after half of the sentence for fixed-term imprisonment.	- Judicial authorities.
Indonesia	- Attendance of treatment programs. - Possibility of community reception. - Good conduct.	- Assessment after two-thirds of the sentence.	- Administrative authority
Philippines	- No pending judicial cases.	- Assessment after a minimum period for indeterminate sentences.	- Administrative authority
South Korea	- Payment of civil liabilities. - Good behavior. - Show of repentance.	- Assessment after twenty years for life imprisonment - Assessment after one-third for limited terms.	- Administrative authorities
Taiwan	- High scores in education, work, and conduct (Prison assessment). - Show of repentance.	- Assessment after twenty-five years for life imprisonment sanctions. - Assessment after half of the imprisonment term for first-time offenders. - Assessment after two-thirds of imprisonment term for recidivists.	- Administrative authority

Note: The table uses online information from the Ministry of Justice and Criminal Codes of each nation.

In comparison, both regions show a strong preference for a single model of parole administration. Central America, except for Belize and Panama, favors the Judicial model, but the East and Southeast Asia regions favor the Executive model. As mentioned, this formulation is due to the influence of the American and Continental models. Belize, Panama, and the Popular Republic of China are outliers in each region because of the differences in political and cultural influences. A major distinction between the two regions is the absence of indeterminate sentences in the case of Central America, a characteristic of Latin American penitentiary regulations of Continental Europe's influence. The show of repentance is common in the East and Southeast Asia region, although this is not necessarily due to the application of the executive model. The expression of repentance is a relevant cultural qualifier in the region. Both regions have in common the absence of community-linked criteria or the availability of outside support resources to consider in the parole assessment. In sum, parole in both regions is a discretional benefit resting on individual assessments with little consideration of external resources or community integration.

2. International Perspectives on Human Rights and Parole

Internationally, early-release measures such as parole have received extensive support for the past forty years, marked by the creation of international rules designed to promote fairer support systems for parolees. Academic scholarship has also played a key role in assessing the use of early-release measures and other community-based sanctions, supplying a rich source of information in support of non-institutionalization.

International legislation on community-based treatment prioritizes crime prevention through early-release measures for offenders. These rules result from discussions and compromises within regional and international organizations, promoting minimum standards to protect society and offenders from undue abuses of criminal justice systems. For the present investigation, international rules are valuable sources of information to develop the comparative criteria necessary to promote parole models that emphasize peacemaking parole models.

2.1 International Human Rights and the Penitentiary System

The modern human rights project appeared on a global scale during the 20th century, taking in from the development of diverse actors, such as cosmopolitan elites, Christian democrats, postcolonial reformers, humanists, solidarity movements, lawyers, nongovernmental organizations, and even artists and novelists[25]. By the 1990s, human rights became the dominant international discourse with an array of international rules and institutions, setting forth policies to improve the standing of vulnerable populations (Chong, 2010; as cited in Langford, 2018, p. 71).

The Office of the United Nations High Commissioner for Human Rights has underlined that good governance and human rights mutually reinforce each other. In recent years, the UN has promoted the search for practical examples of activities that can strengthen that relationship (2007). Human rights principles supply values and standards, fostering penal convergence and amalgamating the best practices on specific issues.

International legislation based on human rights has taken a central stage in developing fairer penitentiary practices. For example, the International Covenant on Civil and Political Rights declares that penitentiary systems must include treatment programs that aim to reform and rehabilitate offenders. Further, human rights organizations have promoted international standards on prisoner rights, such as the UN Minimum Standard Rules for the Treatment of Prisoners, which set out to create “what is generally accepted as being good principle and practice in the treatment of prisoners and the management of institutions” (1955; as cited in Banks and Baker, 2016, p. 153). General regulations, such as the Tokyo Rules, call for developing alternatives to imprisonment to aid offenders in their social reintegration (UNODC, 2013). Additionally, regional treaties, such as the European Convention on Human Rights, have also been influential in promoting legislation favorable to prisoner rights and enhancing international regulations through regional developments (Banks and Baker, 2016). Together, these standards highlight that imprisonment is more valuable to society if the period of imprisonment ensures the reintegration of offenders into

[25] See Hopgood, 2014; Hunt, 2007; Jensen, 2015; Lorca (2015) and Moyn, 2015 (Langford, 2018, p. 71).

society (UNAFEI, 2021). Thus, from a human rights perspective, imprisonment's goal is to protect society from crime, develop offenders' motivation to respect the law and find work, foster self-respect, and develop a sense of responsibility (UNODC, 2013).

Regional organizations also play a vital role in promoting human rights-based practices in parole. The Council of Europe, for example, states that the goal of parole is to promote an easier transition from life in prison to the community (Garcia, 2015). Further, the council stated that parole contributes to the penitentiary administration in two areas: Crime prevention and cost reduction. In the case of the former, parole is a valuable device to promote social reintegration, thus preventing recidivism. For the latter, parole is an effective control mechanism to reduce the costs of imprisonment and the negative effects of imprisonment (Garcia, 2015).

Furthermore, the Council of Europe's rules on parole also remind parole officers of the necessity to ensure that offenders are conscious of the conditions of release and the consequences of non-compliance, basing the control of offenders on their active cooperation (UNODC, 2013). Based on available research at the time, the council defended that the best practices on parole supervision require a systematic and careful assessment of individual conditions, including risks, needs, and positive factors. Importantly, the council highly recommends that parolees become active participants in reinsertion, expressing their desires and aspirations (UNODC, 2013).

2.2 Criticism of International Rules

Together, human rights organizations have contributed to developing general notions concerning the best practices in the penitentiary system, creating minimum standards and promoting rehabilitation models as the most effective to prevent reoffending. However, the efforts of the international system have been subject to mounting criticism.

The criticism of modern human rights traces back to the post-World War II era. For instance, the American Anthropological Association challenged the Universal Declaration of Human Rights, stating that human beings do not "function outside the societies of which they form a part" and the conception of a universal human right differed from local definitions of what constitutes a right (Executive Board of the American Anthropology Association, 1947;

as cited in Langford, 2018, pp. 72-73). Further, the association claimed, human rights declarations and legislation originated in a Western European and North American context, and as such, their articulation was not necessarily universal nor representative of the global standards (Langford, 2018).

Other critics of the international human rights systems have pointed to the compliance problem of international law, referring to the intended and unintended consequences of human rights laws (Simmons and Strezhnev, 2017). These critics point to the international system's ineffectiveness and lack of accountability as the main reasons for doubting the applicability of human rights-based rules (Langford, 2018). The neutrality of human rights, critics maintain, makes the system unsustainable.

Moreover, the lack of political and bureaucratic tools to apply human rights in specific contexts makes it difficult for human rights advocates to confront national political agendas (Moyn, 201:2018; as cited in Langford, 2018). Critics claim that human rights laws do not accomplish their objectives because there is "little evidence that human rights treaties, on the whole, have improved the wellbeing of people, or even resulted in respect for the rights in those treaties" (Moyn, 2018; as cited in Langford, 2018, p. 70). Other authors even suggest that mechanisms of coercion are necessary to implement human rights together with a deployment of factual methods to develop human rights projects [26]. Without these mechanisms, human rights treaties are little more than well-wishes.

Furthermore, critics point to the self-restraint of international treaties. Limiting human rights laws may legitimize them but leaves local agencies responsible for implementation (Langford, 2018). The most common objection to public international law is that it lacks a single sovereign power to issue commands and force compliance without being bound to other institutions (Mason, 2022). Other critics suggest that states' ratification of human rights treaties may not stand for factual progress because nations may formally consent to treaties to avoid international exclusion (Posner, 2014; as cited in Langford, 2018, p. 75).

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[26] See Baxi, 1998; Hafner, Burton and Ron, 2007; Kennedy, 2001; and Rajagopal, 2007 (Langford, 2018, p. 70).

Globally, there has been little consensus on concrete normative aspects of penitentiary practices, especially considering that nations with considerable influence resist international practices (Frase, 2001; as cited in Banks and Baker, 2016, p. 152). These criticisms also point to the participation of nations suspected of human rights violations in international agencies whose purpose is to protect human rights (Mason, 2022). Other researchers suggest that demanding compliance does not imply human rights-oriented practices because offender states can circumvent human rights regulations to continue with oppressive regimes (Simmons and Strezhnev, 2017).

2.3 Goals of International Rules

Although there are valid criticisms of the implementation of human rights-based international rules, critics have not presented compelling evidence to suggest the negative effects of their implementation. Supporters of international guidelines state that critics do not consider the goals of international rules and conflate problems based on notions of sovereignty and independence. Researchers also point out that criticisms against international human rights law and human rights-oriented treaties lack substantiation in factual evidence (Simmons and Strezhnev, 2017).

Most international human rights treaties are indeed vague and have no authoritative agency responsible for global interpretation (Mason, 2022). Despite the limited nature of treaties, international legislation looks to maximize fairness and minimize unnecessary harm; thus, the value of these treaties is not dependent on a normative assessment of their legitimacy but on a moral evaluation of the goals international laws look to accomplish (Mason, 2022). Human rights-oriented international rules have practical goals based on common practical ideas and, therefore, have no particular legal theories to support them (Mason, 2022). The strength of human rights-based international laws is that they supply uniform behavior guidelines, providing comparative advantages to national laws in securing human rights (Mason, 2022).

Supporters of the international system also argue that the universality of human rights does not require global homogenization or the sacrifice of local customs; human rights legislation aims to protect local costumes from local and foreign impositions (Donnelly, 2007;

as cited in Langford, 2018, p. 73). Importantly, outside of Western Europe and North America, human rights enjoy longstanding support, and there is a record of developing nations contributing to the development of the modern human rights project (Langford, 2018). Even though critics rightly point to overreliance on Western European and North American institutionality, most nations are now part of the international human rights system in one way or another, and for the first time in history, countries have a place of assembly where conflicting ideologies and cultures can find a space for discussion and compromise (Aston, 1984; as cited in Langford, 2018, p. 75).

On the legitimacy of human rights-based international rules in opposition to national sovereignty, international and regional organizations' capability to enforce adherence to treaties depends on willing participation. On a national and international level, laws or legal institutions can be legitimate in a positive and normative sense. The former refers to consensual acceptance and the belief in the merits of following the dispositions of a legal institution. The latter refers to the right of a state to rule, regardless of belief, and following only parameters that designate legitimacy (Mason, 2022).

Legitimacy may also derive from the justice program it seeks to promote on a substantive level (Mason, 2022). If the content of the law appeals to individuals or national representatives, then the recognition of those laws' merits is sufficient to grant them legitimacy. In this sense, international rules follow the “liberal principle of legitimacy”, which declares that legitimacy extends from constitutional protections of freedoms and promoting equality acceptable to common human reason (Rawls, 2005; as cited in Mason, 2022, p. 1831). In simpler terms, legitimacy comes from acceptable propositions, not superior power. By grounding international rules on consensus and voluntary participation, signatory states can find sufficient reasons to support human rights-based guidelines not by coercion but by analyzing the merits of their contents.

Regarding the criticism against human rights protection and its incompatibility with human welfare and economic development, human rights researchers see both areas as disconnected but highly compatible. Supporters of the international system highlight the importance of aligning national development projects with constitutional and human rights goals. Moreover, recent empirical suggests that states that ratify international regulations to

protect economic, social, and cultural rights had better outcomes in social equality than those that did not (Simmons and Strezhnev, 2017).

Yet, to the credit of critics, it is true that measuring the effectiveness of human rights is challenging on a methodological level. First, there is no clear consensus on the baseline methods for measuring the impact of human rights law implementation[27]. Second, finding the causal relationship between human rights and positive material impacts is elusive. However, recent advances in techniques such as regression analysis have contributed to alleviating this problem, and it is becoming clear that simply ratifying legislation is insufficient to have any measurable effects (Sano, 2015; as cited in Langford, 2018, pp. 77-78). Lastly, assessing the impact of human rights laws requires examining the diffuse effect (Feeley, 1992; as cited in Langford, 2018, pp. 77-78). Any examination of the impact of international regulation by itself is incomplete. Implementing human rights-based legislation relies on conducive environments and administrative processes responsible for responding to the rights and needs of the population (Office of the United Nations High Commissioner for Human Rights, 2007). Therefore, it is necessary to consider how ratification leads to creating national frameworks and instruments that promote human rights-oriented practices.

A particular criticism of the operation of parole based on international rules is the view that human rights law is in direct opposition to public safety measures; international law acts against the interest of public protection by reducing the discretion of parole agencies exclusively in favor of offenders and detriment of public safety (Padfield, 2007). Yet, the constraint of discretionary power by international rules is necessary to improve procedural protections for the general population. Penitentiary measures effectively restrict citizen rights; thus, the limitation of discretionary powers protects the public interest, although social sectors perceive it as excessive protection of offender rights. Rather than endangering public protection by improving conditions in penitentiary institutions, international rules support measures that maximize the protection of the community without relying on punitive measures (UNAFEI, 2021).

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[27] See Feeley, 1992, and Rosenberg ,1991 (Langford, 2018, p. 77-78).

2.4 Tokyo Rules

The Fourteenth United Nations Congress on Crime Prevention and Criminal raised concerns about increasing imprisonment practices throughout the globe. Despite its elevated use around the planet, representatives of the congress stated, imprisonment alone is insufficient to prevent reoffending and, on the contrary, has adverse effects on social reintegration (UNAFEI, 2021). Prisoners face social, economic, and personal challenges that complicate social reintegration. Thus, detaining offenders without supplying support programs that address their needs will have unintended results (UNAFEI, 2021). To improve the conditions of criminal justice systems throughout the globe, the congress recommended that international organizations that support human rights promote practices and techniques intricately connected to empirical research, mentioning the role of the Tokyo Rules as proper guidelines to support community-based treatment.

The Tokyo Rules, or the United Nations Standard Minimum Rules for Non-Custodial Measures, are international guidelines with strong ties to the experiences of East Asian nations, particularly to those of Japan's management of community supervision and parole. States throughout the globe, including Costa Rica, have ratified the Tokyo Rules and participated in discussions to assess their impact. Parties that created the Rules highlighted the relevance of setting standards for imposing restrictions on fundamental rights within the criminal justice system and aimed to promote such standards for community-based programs. However, the rules do not create a detailed parole model. Instead, they foster accepted good principles and practices. The guidelines promote fair and equitable use of community supervision measures without precluding national experimentation or the development of new practices (United Nations, 1993).

Table 4 shows the rules relevant to creating comparative criteria from a support perspective. The Tokyo Rules has eight sections, twenty-three subsections, and eighty-two rules. The first section sets up the general principles, aims, and scope of measures. Sections two, three, and four refer to measures in criminal procedure. Section five describes the implementation of non-custodial measures, their supervision, duration, conditions, and treatment process. Sections six and seven refer to staff and volunteer characteristics. Finally,

section eight sets up the research, planning, policy formulation, and cooperation requirements.

Table 4. Rules relevant to the comparative criteria.

Tokyo Rules	Description of contents
Rules 1.1, 1.2, and 1.3	- The first rules express the fundamental aims of the Tokyo Rules, encouraging the broadest possible use of non-custodial measures and ensuring that those measures are fair and just in their implementation. - Claim that imprisonment has detrimental effects on offenders, in particular, those convicted of minor crimes and those needing medical and social aid. - Imprisonment severs community ties and hinders reintegration, at the same time, it reduces offenders' sense of responsibility. Community-based treatment makes it possible to exercise control over offenders' behavior under natural circumstances. - Promoting offenders' reinsertion contributes to the reduction of recidivism by helping offenders become responsible citizens. - Crime and its effects are a financial burden to the state, thus noncustodial measures contribute to reducing criminal justice expenses. In addition to indirect financial benefits, such as reintroducing offenders into the labor market, community-based measures reduce the social stress from incarceration. - Describe the importance of community focus and diversity of approach to improve community environments and promote preventive measures.
Rules 3.1 and 3.3	- Stress the importance of clear and comprehensive legal frameworks for all aspects of community-based treatment. The operation of parole must have a basis on laws properly set up by legislative organs, creating requirements and obligations for all institutions involved in the intervention of parolees. - Underline the relevance of discretion exercised by competent authorities based on the principles of legality to reduce the occurrence of arbitrary actions and protect fundamental rights.
Rules 10.1 and 10.2	- The basis for measures such as parole is supervision in the community setting, exercising a control function to encourage offenders not to reoffend while conducting welfare and aid functions. - Refer to the relevance of legal frameworks that clearly define the special characteristics of parole officers to effectively support offenders. - State the role of volunteers in the supervision of parolees to promote social reinsertion and minimize state intervention to the utmost necessity. - Refer to the importance of implementing practices that prepare volunteers and guarantee their protection. - Recommend the implementation of individualized intervention for parolees that ensures equality of treatment, focusing on the individual needs of offenders and contributing to their social development.

Tokyo Rules	Description of contents
Rule 11.1	- Reinforces the principle of strict legality through the application of treatment programs that incorporate clearly defined legal criteria and conditions of application. - The parole approval process must balance the needs of society, the needs and rights of the offender, and the needs of the victim. - Conditions for parole approbation and community supervision should be achievable, realistic, and precise. Vague conditions impair the process of reinsertion and compliance of the offender. - Parole conditions must reinforce parolees' sense of social responsibility and may include requirements to keep a job, pursue an education, and contribute to the community environment. These should not, as much as possible, hinder the ability of offenders to live in society nor incur physical or mental hazards.
Rules 12.3 and 12.4	- Require that offenders have the necessary information to understand the conditions of parole and the consequences of non-compliance. - Conditions of supervision may continually reflect the progress of parolees.
Rules 13.1 to 13.6	- Mention the conditions and treatment procedures for non-custodial measures, pointing out that offenders should be actively involved in the process to foment a sense of social responsibility and identity with the goals of supervision. - Stress the constructive purposes of supervision and its positive aims, outlining the scope of treatment programs to meet the needs of offenders. - Require trained and experienced officers to conduct the treatment process in conjunction with other experienced participants and community leaders. - Describe the relevance of community involvement and social support systems such as family members, neighborhood associations, schools, work, and social organizations. - Recognize the role community resources play to contribute to the successful reinsertion of offenders when properly coordinated by a variety of professionals and community agents to meet the needs of offenders and encourage the development of special programs.
Rules 14.1 and 14.2	- In line with the principles of proportionality and minimum intervention, violations of conditions should not qualify as an offense unless they make up a separate offense. - In cases when violations merit cancellation, competent authorities must decide based on legal provisions.
Rule 16.1	- Stresses the necessity for cooperation and coordination with other agencies. - Adequate training for officers in international norms and guidelines for the protection of human rights. - Officers should receive training in subjects such as law, sociology, psychology, and criminology.

Tokyo Rules	Description of contents
Rules 17.1 and 17.2	- Encourages public participation in the community treatment process. Community resources, when fully mobilized to aid and support criminal justice administration, can help offenders develop meaningful social ties, thus minimizing the risk of social isolation that leads to reoffending. - Underlines the importance of public participation for the benefit of society in general by involving community agents in the protection of society.
Rules 18.1 to 18.4	- Calls for all elements of society to take part in the organization of volunteer groups in the supervision of parole. - Efforts to inform the public of the importance of non-custodial measures. To guarantee community-based treatments' effects, the authorities must actively supply clear and direct information to the public, opening channels of communication that promote the merits of measures such as parole. - Suggests that penitentiary authorities use mass media to inform the public and create a receptive environment for parolees.
Rules 19.1 to 19.3	- Set the requirements for involving volunteers in community supervision and the creation of clear legal frameworks and conditions to regulate these groups. - Volunteers must receive training and capacitation on the aims of community treatment.
Rules 21.1 to 21.2	- Emphasizes the need to promote offender supervision within a framework of national development, including employment, education, social welfare, and health programs. - Importance of constant review and evaluation of community-based programs. The authorities must regularly conduct statistical and qualitative research to assess the effectiveness of the measures and develop new policies.

Note: The table uses information found in United Nations (1993).

The previous rules form the basis for creating the comparative assessment tools this research intends to promote. The mechanisms found in the Tokyo Rules facilitate social reinsertion and perform, therefore, as tools of peaceful community building by supporting sustainable practices with far-reaching effects beyond community supervision. Consequently, the Tokyo Rules can form the basis to create a parole model that aims to implement concrete practices based on the experience of nations that encourage the support function of parole.

3. Considerations for the Comparative Analysis of Parole Systems

Based on the information analyzed in this chapter, the present study proposes that parole systems should continuously develop better support-oriented models. Research and international experiences suggest that such models are more efficient in preventing recidivism and promoting socially positive goals. Therefore, the present investigation offers a comparative view that not only eases the comparison of parole systems from a support-oriented perspective but also leads to the formulation of a parole model that builds upon the support role of parole to promote peacemaking.

The information examined so far reveals that, throughout history, parole has pivoted between control and support roles. Depending on the criminal justice model and the discretionary power of parole authorities, parole can become an alternative to incarceration where offenders can find the support necessary to reform, or it can become a form of prison in the community where offenders are under strict supervision. In recent decades, support for parole as a rehabilitative measure has grown internationally, especially in academic and professional sectors that have shown parole's value through empirical research. Despite this growth, resistance against reforming parole is still strong, particularly in states where repressive crime control policies receive support from the public.

Yet, the information shown in the present chapter suggests there are more merits to support-oriented parole models, especially when community resources and interinstitutional cooperation become integral parts of the day-to-day operations. It is necessary, however, to confront the reasonable doubts individuals might have against parole, often associated with the misapplication of just punishment and unfair treatment against victims or communities.

Addressing these doubts requires concrete policies to support offenders and protect the community.

Promoting support-oriented parole models requires comparative examinations of parole systems and empirical assessments of treatment programs. Parole's history and the current international efforts show that with more interaction between nations, it is possible to find common ground from where legal reforms can occur. This collection and comparison of information serves a purpose beyond simply contrasting different practices, setting the foundation for better legislation. Here, the comparative method reflects upon alternative schemes and the possibilities of improving criminal justice institutions (Van Hoecke, 2004).

Consequently, this section explains the development of the comparative criteria and analytical tools to create a peacemaking-oriented parole model. Subsection 3.1 addresses the functional examination of parole systems. Here, the present investigation considers the underlying characteristics of parole regulations through history to identify areas valuable to a peacemaking model. Subsection 3.2 presents the comparison criteria to contrast the Japanese and Costa Rican systems. Then, subsection 3.3. explains the analytical perspective to make sense of the comparative examination. And lastly, subsection 3.4 delves into the peacemaking approach and its relationship to developing the comparative criteria.

3.1 Measuring Parole

The comparative section of the present investigation reveals the connection between parole regulations and support-oriented measures. Revealing this relationship is relevant to identifying offender-support policies that enhance social harmony, equality, and security for all citizens (Atkinson, 1999, Downes and Hansen, 2006). These policies demonstrate the ability of parole systems to ensure social reinsertion and reduce reoffending. For the comparison, the present study uses a functional approach as a resource for comparing parole systems and assessing the operation of parole assessments and supervision.

To choose the functional approach, the present investigation accounts for the various roles and goals criminal justice theories attribute to parole. This approach makes the comparative examination of different parole laws from a technical perspective, focusing on

methods and operations to assess the parole system. By doing so, it is possible to reveal the mechanisms that intervene in support of offenders within each system.

Against the functional approach, studies on the political economy of punishment proclaim that it is only possible to understand criminal justice institutions by separating functions from the act of punishment itself (De Giorgi, 2006). Most prisoners face internal and external challenges, which imprisonment and lack of support from family and community members can worsen. As a result, systems that, despite declaring a rehabilitating function, limit the ability of offenders to find employment, housing, education, or social capital are more likely to trap offenders in a cycle of failure and reoffending (UNODC, 2013). Thus, functional approaches overlook the collateral effects of criminal justice policies, focusing on the internal structure of penitentiary institutions and ignoring societal issues that impact punishment practices.

Moreover, researchers such as Zweigert and Kötz stress that functionality needs to investigate the facts behind the law but that such examinations are highly challenging because social sciences and normative sciences employ different methods to understand and represent facts. Without contextualization, a functional approach is inefficient because a function performs under specific settings, and thus legal devices might not fall under the same legal standards in a comparative examination (Van Hoecke, 2004). In short, a legal instrument such as a criminal code could operate smoothly in a particular setting but cause social unrest in another setting if reformers do not understand the social forces that led to its creation.

However, the present investigation argues that a limited functional approach is necessary to understand the specific operations of a legal system, independent of external factual considerations. Here, the functional approach does not investigate the function of parole systems based on declared goals or intentions, nor does it consider the operation of criminal justice institutions in isolation from other social institutions. Rather, the functional approach assesses methods and operations within the parole system concerning the general notions found in the Tokyo Rules and parole models throughout history. Only by focusing on these methods and operations do the conditions necessary to promote offender support and social reintegration become visible.

The functional approach contributes to uncovering the capabilities of a parole system to support offenders and collaborate with community resources. The historical review of parole and the examination of international regulations show that support-oriented parole models incorporate welfare measures and work with community agencies to minimize the risk of reoffending. Although welfare support and community participation by themselves have positive effects on community-based treatment, having both present significantly improves offender intervention and parole management.

3.2 Comparison Criteria

Taking the characteristics of support-oriented parole models and the Tokyo Rules as a basic framework, this investigation creates four comparison criteria to reveal social reinsertion mechanisms in Japan and Costa Rica's parole systems. These criteria are not only the foundation of future comparative studies but are also the areas around which the present study orients peacemaking.

Table 5 describes the comparative criteria and their content. The left column lists the comparison criteria, each relating to a functional area of the parole system, and the right column describes each criterion's logic and the specific areas each explores. The Normative Development, Disciplinary Intervention, Control and Supervision Mechanisms, and Community Intervention criteria refer to rulemaking, relationship-building, and condition-creating processes in the parole system that affect the capability of parole authorities to establish support-oriented practices.

Table 5. Comparative criteria.

Criteria	Description
Normative development	- Based on the Tokyo Rules statement on legally established procedures and clarity in definitions. - Determines the general goals of parole legislation. - Examines the availability of legally sanctioned rules and procedures. - Scrutinizes how the legal mandates of each system formulate comprehensive regulations to govern parole. - Assesses the specialization of regulations and incorporation of international rules.
Disciplinary intervention	- Based on support-oriented models that favor multidisciplinary interventions and the Tokyo Rules statement on the necessity of professionals from diverse backgrounds. - Assesses the qualifications of professionals managing parole systems. - Examines the incorporation of specialized knowledge in parole assessment. - Reveals the procedures involved in parole assessment and the agencies involved. - Determines the level of participation of external assets in parole assessment.
Control and Supervision mechanisms	- Based on the support-oriented models that amalgamate control and support measures into unified actions, international research on community-based treatment, as well as the Tokyo Rules statement on parole conditions. - Assesses the degree of supervision and intervention necessary to minimize reoffending. - Determines the various tools and technologies available to officers to track parolees, as well as processes for suspension or cancellation of measures as indications of strictness or tolerance. - Examines the community resources involved in parole supervision and support. - Reveals the support policies available for offenders in the form of welfare-oriented measures.
Community involvement	- Based on international research on community-based treatment and the Tokyo Rules statement on community resources. - Determines the level of participation of community resources in parole supervision and support. - Reveals the inter-institutional collaboration agreements with welfare-oriented organizations in the supervision and support of offenders. - Examines the level of involvement of volunteers as support resources. - Observes the role of parole authorities in public communication and knowledge production.

Note: The information shown in the table is based on the Tokyo Rules examined in Table 4.

3.3 The Parsimony Principle

To evaluate the Japanese and Costa Rican parole systems the present investigation introduces the principle of parsimony to compare the distinct restriction levels to access parole and support measures.

Traditionally, the proportionality principle has had a fundamental place in criminal and penitentiary regulations as a guarantor against the excesses of imprisonment. However, from the present investigation's perspective, the proportionality principle is insufficient to assess community-oriented measures because proportionality legitimizes imprisonment or restrictive measures. Compared to the minimal sufficiency approach taken by the parsimony principle, proportionality as a principle serves only as a limitation for setting up punishment ranges, not as a measure of the necessity of the punishment itself (Braithwaite, 2014).

The principle of parsimony aims for the least restrictive sanction necessary to achieve a social purpose rooted in moral precepts of utility and humanity. In other words, it aims to minimize harm while achieving a legitimate social purpose (Atkinson and Travis, 2021). Parsimony also plays a role in developing more just societies, aiming to treat individuals with equal respect and affirm fundamental human dignity (Tonry, 2017; as cited in Atkinson and Travis, 2021, p. 10).

Parsimony, in the context of parole and community-based treatment, expresses the "normative belief that infliction of pain or hardship on another human being is something that should be done when it must be done, as little as possible" (Travis, Western, and Redburn, 2014; as cited in Atkinson and Travis, 2021, p. 11). Addressing the parsimony principle is valuable to current legal and criminological scholarship that questions the logic of exclusively punitive measures. Criminal justice responds to specific social wrongs; its basic design does not respond to social inequality or economic disadvantages, and, as such, cannot resolve issues that require larger levels of political intervention. On the other hand, support policies respond to the disadvantages produced by socio-economic factors and integrate welfare policies that can address the deficiencies in penitentiary practices (Coverdale, 2017).

The relationship between parsimony and reinsertion advances the well-being of people under the supervision of criminal justice systems. The principle of parsimony

contributes to assessing the necessity of imprisonment and the potential for less restrictive measures (Atkinson and Travis, 2021). Analysis undertaken from the perspective of parsimony helps redress the collateral consequences of excessive punitiveness, which are not accidental but necessary consequences of abusive penal practices. In this sense, certain aspects of penitentiary practice, such as the parole system, can receive help from a supporting cast of institutions that positively aid offenders and prevent reoffending without resorting to continued incarceration.

The principle of parsimony provides an analytical framework to understand how criminal law distorts the purpose of punishment while it promotes a focus on individual liberty and community integration (Atkinson and Travis, 2021). Philosophers and reformers from the 18th century considered the principle of parsimony by analyzing the relationship between the necessity of punishment in proportion to the offense. Excessive punishment, according to writers such as Beccaria, Kant, and Bentham, was a form of injustice that is only admissible as far as it excludes greater evils (Atkinson and Travis, 2021, p. 9). A measure that becomes an obstacle for individuals to improve their standing is a measure of absolute repression that requires special consideration and scarce application.

The principle of parsimony also relates to social contract theory, which considers that the state can only intrude on personal liberties to achieve a legitimate social purpose. Excessive intrusions are inherently illegitimate from the parsimony perspective because they emphasize the primacy of liberty interest and the limitation of state power (Atkinson and Travis, 2021). Social contract theory envisions mutual obligation between the state and the population under its control. The state supplies an array of securities, and, in return, inhabitants cede a part of individual sovereignty within constitutional limits. The principle of parsimony checks the exercise of state power (Atkinson and Travis, 2021).

Excessive punitiveness and measures to impair social reinsertion deliberately undermine the social contract. Using criminal law to suppress rights in an abusive or unnecessary fashion undermines state authority (Atkinson and Travis, 2021). When the laws are not conducive to reaching a stated goal, then those laws become an obstacle for citizens to be part of a contractual relationship with the state. Parsimony, therefore, guides the

policymaking process to create logically consistent and interconnected legislation (Van Hoecke, 2004).

In the present investigation, the parsimony principle evaluates the restrictiveness in parole systems as a necessary complement for comparative examinations that promote support-oriented models. This principle comes into play in analyzing the stages that lead to the evaluation, approval, and application of parole. The parsimony principle also observes the relationship between each criterion and social reinsertion, considering the coordination between actors from diverse backgrounds and the conciseness of the rules that regulate parole.

3.4 Promoting Peace

The present investigation defines the amalgamation of offender support and community involvement as social reintegration. To develop a peacemaking parole model, social reinsertion plays a key role because it creates opportunities for community agencies to participate in the operation of criminal justice institutions. Further, social reintegration is compatible with restorative justice models and the consideration of the victim in the parole assessment process.

Social reintegration is a process that foments the intervention of offenders on a social and psychological level to prevent offending. The process involves creating and supporting relationships with pro-social assets, such as community and educational organizations, promoting healthy community relationships that will become necessary for life out of crime (UNODC, 2013).

Social reinsertion programs also balance the need for security and control with support and aid measures, offering a comprehensive approach to the multiple variables that influence offending, and coordinating with an array of institutions and organizations of social welfare. Further, to incentivize community participation, social reinsertion programs also include communication strategies and have solid evaluation components that allow the public to grasp the operation of community-based surveillance (UNODC, 2013).

From a peacemaking perspective, social reintegration in criminal justice systems can contribute to improving current social issues. Traditional criminological theory postulates that modern societies depend on repressive social control mechanisms because of the complexity of social relationships and the weakening of willing conformity to general social rules (Black, 1976; Zehr, 1976; as cited in Sullivan and Tifft, 1998, p. 213). Thus, creating a cost to criminal actions is the only form of control available for criminal institutions. However, from a peacemaking criminology point of view, criminality results from an individual's lack of institutional embeddedness (Sullivan and Tifft, 1998). Social reintegration aims to redress this problem.

Peacemaking criminology sees crime in a larger, communitarian context that maximizes willing conformity and minimizes the need for coercion. Willing conformity promotes continuous interaction as a basis for a social order that generates community understanding (Michalowski, 1985; as cited in Sullivan and Tifft, 1998, p. 213). Criminology as peacemaking argues that community ties determine the social order on a functional level (Sullivan and Tifft, 1998). Put simply, it is by improving the participation of communities in the day-to-day process of justice, guiding them toward an understanding of reconciliation and community building, that the criminal justice system can find success and avoid reliance on exclusively punitive measures. Further, peacemaking places its central concern in all realms of interaction in the criminal justice system. In principle, peacemaking argues that there can be no peace without justice and no justice through violence-based repressive actions (Prejean, 1993; as cited in Sullivan and Tifft, 1998, p. 3).

Putting into practice peacemaking policies is challenging due to their dependence on social and cultural contexts to define success (Gesualdi, 2014). Peacemaking processes are not usually commensurable with traditional justice standards, especially when it challenges the states ius puniendi as the sole authority responsible for redressing criminal harms. However, in the present study, the peacemaking approach to parole uses social reintegration measures as clear and empirically supported mechanisms that can supply criminal justice systems with concrete results.

Moreover, beyond traditional considerations of criminal justice effectiveness, a peacemaking parole model considers the needs of victims, offenders, and communities in

criminal justice (Sullivan and Tifft, 1998). In practice, the peacemaking approach relates to the restorative justice model. This model views common crime as an act against a person or the community. Researchers on restorative justice state that punishment alone is not effective in changing the behavior of offenders, rather, it disrupts communities and community relationships. It is preferable, restorative researchers argue, that victims become central to the criminal justice process and offenders make reparation for the offense (Gesualdi, 2014).

Improving the position of victims in the criminal process is highly desirable, but in highly repressive systems, this can lead to increased calls for punitive measures. The restorative model promotes peacemaking participation to prevent such calls, looking towards alternative solutions to incarceration while satisfying the victim's need to feel heard and understood. Researchers such as Van Ness and Strong state that justice models where victims, offenders, and communities receive equitable support are more likely to redress the harmful consequences of criminality (Gesualdi, 2014). A peacemaking parole system that includes restorative principles can thus incorporate the participation of restorative practices to ease the tensions product of early-release and allow offenders to restitute the criminal harm.

Chapter 3

Foreword

The present chapter describes the Japanese and Costa Rican parole systems, looking into each system's historical background and current situation. Here, a brief examination of the sanctions available in each country contributes to the contextualization of the parole measure and supplies the resources for Chapter 4's comparison.

1. The Japanese System

This section examines the Japanese criminal justice system and the background of current parole legislation. A brief historical account contextualizes the role of parole in Japan's criminal justice system and reveals general trends in parole application that influence community-based treatment to this day.

1.1 Modern Foundation of the Japanese Parole System

The modern Japanese criminal justice system originated in the late stages of the Meiji era with the promulgation of the 1907 Criminal Code and 1908 Prison Law[28]. Overseas missions to Europe and North America influenced the development of all aspects of Japanese legislation after the country sent observers to leading nations. From these efforts, the Japanese government undertook reforms emulating foreign legal systems, including the German Empire's 1871 criminal legislation as a basic framework for the parole system[29].

The current parole system began to take shape after the promulgation of the 1907 Criminal Code, receiving praise for its laxer terms in favor of parolees compared to the 19th-

[28] The Meiji Era lasted from 1867 to 1912.

[29] The Japanese government established the first parole regulations in 1872 (Onozaka, 1990, p. 103).

century regulations[30]. For more than a hundred years since, the foundational rules on parole in Japan have remained unchanged, becoming a fixture for later laws that regulated concrete aspects of parole administration.

The involvement of volunteer and community organizations in the modern Japanese parole system also started to take shape during the Meiji era. On a national level, privately funded philanthropical organizations played a fundamental role by creating offender support institutions as early as 1882[31]. These institutions, now called Rehabilitation Facilities (KHS), began cooperation between public and private in the Japanese offender support in the community[32]. Other volunteer local neighborhood associations engaged in crime control and crime prevention (Mori, 2017)[33].

The involvement of volunteer and philanthropical organizations characterizes the development of the modern Japanese criminal justice system since the 19th century (Mori, 2017). Although similar humanitarian and charitable movements to support offenders have existed in Europe and North America, the development of offender support organizations in Japan has close links to the notion of duty, which forms the basic principle of social interaction and social responsibility in Japanese society. This notion of shared responsibility to create social harmony might explain the rapid expansion of crime prevention organizations in rural and urban spaces in the first decades of the 20th century (Yoshinaka, 2006).

The collaboration between public and private in the parole system received government recognition at an early stage. In the juvenile justice system, volunteer officers

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[30] For prisoners sentenced to determinate sentences, the period of parole applicability changed from three-fourths of the sentence to one-third, and applicability to parole for prisoners sentenced to indeterminate sanctions changed from fifteen years to ten years (Onozaka, 1990, p. 104).

[31] The first of which was the 静岡県出獄人保護会社 in Shizuoka Prefecture (Matsumoto, 2022, p. 9).

[32] In Japanese, Kousei Hogo Shisetsu (更生保護施設); In 1912 organizations for released offenders (Menshuu Hogo-Kai, 免囚保護会, in Japanese) began to work toward supporting individuals after imprisonment, providing housing and work opportunities to ensure reform (Matsumoto, 2022, p. 9).

[33] In Japanese, Tonari-Gumi (隣組).

cooperated with police officers to conduct community surveillance after 1922, creating a system rooted in the Meiji era contributions of volunteer organizations to support released offenders (Matsumoto, 2022). This system combined the control and rehabilitation of offenders through orientation, support, and surveillance (Kato, 2013) [34] . Significantly, reformers at the time considered that police officers were an obstacle to juvenile offenders' rehabilitation; thus, the volunteer system began as a softer approach to community treatment (Segawa, 1986).

1.2 First Reforms of the Adult Parole System

In the adult system, volunteer officers gained legal authorization to work with adult offenders in the pre-World War II era[35]. Following the success of volunteer collaboration in the juvenile system, criminal justice reformers argued for its application in the adult system. In 1936, special laws applied a monitoring system to guarantee that “ideological offenders” would no longer deviate from social norms and adapt to life in society. Other reforms in 1939 created committees of criminal supervision, the direct antecedents of the volunteer committees involved in adult supervision[36]. These laws solidified the collaboration between public and private institutions, reaching 692 organizations and twelve thousand volunteer officers nationwide (Kikuta, 1972).

After the end of the war and starting with the occupation by Allied forces, the Japanese parole and community supervision system received a structural reform based on the advances in North American doctrine (Uchida, 2015). In 1946, a centralized office within the Ministry of Justice took over the operation of community supervision and contributed to

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[34] In Japanese, Hogo Kansatsu (保護観察).

[35] In Japanese, Hogo-shi (保護司).

[36] The law, referred to as the Law for the Maintenance of National Security (Chian Iji-Hou, 治安維持法, in Japanese), supported by a Law for the Supervision of Offenders (Shihou Hogo Jigyou-Hou, 司法保護事業法, in Japanese), created the system of supervision (Shisouhan Hogo Kansatsu, 思想犯保護観察, in Japanese) directed exclusively against ideological offenders (Kato, 2013, p. 221).

creating the Offender Prevention and Rehabilitation Law and the Volunteer Officers Law that would mold the parole system until the early 2000s[37].

The main emphasis of the laws was to reform offenders through the notion of “Kaizen Kosei”, a form of corrective rehabilitation in a community setting and in contact with positive community leaders[38]. Although the Offender Prevention and Rehabilitation Law did not explicitly define what Kaizen Kousei is, the concept suggests that its purpose is to internally reform and externally adjust offenders so that they refrain from offending (Matsumoto, 2022). To achieve the goals of Kaizen Kousei, criminal justice reformers raised awareness about the necessity of specialists who could effectively manage the new parole system's orientation (Matsumoto, 2022). As a result, from 1949 onwards, specialized parole officers would replace police officers as the agents in charge of community supervision, turning the orientation of community supervision toward offender support rather than control (Segawa, 1986).

1.3 Background to the Early 2000s Reforms

After the 1960s, the parole assessment and the professional preparation of officers became a source of preoccupation for the authorities. Despite declaring rehabilitation as the goal of community treatment, the Offender Prevention and Rehabilitation Law did not create concrete measures to achieve it. Moreover, overreliance on the private sector was noticeable during the post-war era because officers did not have the technical capabilities or resources to deal with the caseload and had little institutional support to conduct community surveillance (Uchida, 2015).

To assess the operation of the parole system, the Ministry of Justice promoted the use of statistical studies to find what was working in offender treatment and prepare the

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[37] Hanzai-Sha Yobou Kousei-Hou (犯罪者予防更生法) and Hogo-Shi Hou (保護司法) in Japanese; The Offender Prevention and Rehabilitation Law created the basic administrative structure of community supervision programs in Japan: A Central Committee to review pardons, Regional Parole Councils to review paroles, and local offices to supervise offenders. The Volunteer Officers Law formalized the responsibilities and characteristics of volunteers within the parole system still applicable to this day (Matsumoto, 2022, p. 10-11).

[38] 改善更生, in Japanese.

ground for new reforms. These studies pointed to the relevance of implementing welfare-oriented measures and improving access to housing and employment (Uchida, 2015). However, no significant reforms to the parole system took place until the early 2000s, when a series of incidents led to the reassessment of the effectiveness of parole and community-based surveillance.

In the wake of the unprecedented crime rates in the decades leading to the end of the 20th century, reducing crime became a political goal to restore Japan's reputation as a safe country. Community safety associations sprung across Japan as a part of a new wave of counteractive measures that focused their attention on the participation of community members and collaboration for effective crime prevention (Yoshinaka, 2006). In prefectures such as Hiroshima, local projects to incentivize crime prevention took on a community orientation. For example, the 2002 “Let's Reduce Crime - A Movement Involving All the Inhabitants of Hiroshima Prefecture for Crime Prevention” project involved not only the local governments and prefecture police agencies but also members of NPOs and regular citizens[39]. Nationally, policies to create crime control and prevention institutions, such as the “Life Safety Division”, gained popularity but did not have access to resources necessary to prevent crime at either the national or the local level (Yoshinaka, 2006)[40].

Despite the attempts to improve the administration of community surveillance and offender reform, two violent episodes led to reassessing the Japanese criminal justice system and the role of justice institutions in offender treatment. The first violent episode occurred in 2002, with the death of two prisoners at the hands of prison officers, resulting in an evaluation process within the Ministry of Justice to reform the antiquated prison law of 1908. The ministry collaborated with the public and private sectors to create a new prison law emphasizing prisoner treatment[41]. Members of the committees included lawyers, journalists, university

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[39] Even dog owners volunteered to patrol their neighborhoods and help police officers (Wan-Wan Patrols, in Japanese) (Yoshinaka, 2006, p. 32).

[40] Seikatsu Anzen-Ka (生活安全課) in Japanese.

[41] Gyoukei Kaikaku Kaigi (行刑改革会議) in Japanese.

professors, writers, doctors, and members of the criminal justice system, and began a series of meetings throughout 2003 (Ministry of Justice, 2004).

The meetings concluded with a declaration that emphasized the necessity for improved communication avenues between the ministry and the public, clear goals for prisoner treatment programs, transparency in prison management, the implementation of human rights-oriented rules, improvement of health services, and strengthening of human resources (Ministry of Justice, 2004). Members of the committee also stated that it was necessary to respect prisoner's dignity to incentivize rehabilitation and foment social reinsertion to improve the effectiveness of the rehabilitation project (Ministry of Justice, 2004). Regarding parole, members pointed to the lack of incentives to motivate prisoners to reform and the absence of connectivity between the prison project and parole as the main challenges concerning the return to community life (Ministry of Justice, 2004).

The second violent episode occurred in 2004, with grievous cases of recidivism leading to high-level discussions to analyze the state of community surveillance[42]. Again, the Ministry of Justice organized discussion spaces in collaboration with members of the public and private sectors to find a comprehensive response to improve the victim's position in the criminal justice system and strengthen offender supervision (Mori, 2017). These meetings assessed community-based treatment and raised awareness about the need for improved offender support programs and better guarantees to protect the community.

As challenges of the system, members of the committee pointed to the lack of public understanding of the community-based system and the discrimination of offenders' issues with privacy and transparency in case management, the excessive dependence on volunteers, the lack of specialization of parole officers to aid offenders in their rehabilitation, deficiencies in offender control, lack of emphasis on the prevention of recidivism and evasions, and the lack of clarity in parole assessment criteria (Ministry of Justice, 2007).

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[42] Kousei Hogo no Arikata wo Kangaeru Yuushoku-Sha Kaigi (更生保護の在り方を考える有識者会議) in Japanese.

The committee found that for an average of sixty-thousand offenders under community surveillance, there were only over a thousand officers and an average of fifty-thousand volunteers, resulting in insufficient coverage (Ministry of Justice, 2007). Regarding parole, although there were discussions surrounding the right of prisoners to request the parole assessment, the committees did not recommend it. A commonly held opinion at the time was that recognizing the parole request as a right would increase requests and lead to increased rejections, thus negatively affecting the mental state of prisoners (Uchida, 2015).

Following the meetings, the committee released a series of proposals to reform the community-based treatment system, including the need to:

- Promote regional development and the participation of regional institutions,
- Incentivize the cooperation with the private and civilian sectors,
- Improve the participation of the victim in the parole process,
- Strengthen the capabilities of officers and improve the links between officers and regional organizations,
- Provide housing opportunities,
- Reform the adaptability and applicability of surveillance conditions, including specialized treatment programs,
- Improve contact with the offender,
- Create employment support programs and other welfare-oriented measures,
- And reform the procedures of Regional Parole Councils (Ministry of Justice, 2007; Uchida, 2015).

Both review processes culminated in the creation of the 2005 Prison Law and the 2007 Rehabilitation Law, which form the backbone of the Japanese criminal justice system of the present era[43]. These improved the standing of prisoners and offenders, emphasized the need for specialized treatment, and focused their attention on crime prevention strategies through welfare-oriented programs.

[43] Keiji Shisetsu ni Kansuru Houritsu (刑事施設に関する法律) and Kousei Hogo-Hou (更生保護法) in Japanese.

2. Current Situation of Parole

2.1 Structure and Orientation of the Community Supervision System

The community supervision system is under the Ministry of Justice's administration, composed of a Central Committee, eight Regional Parole Councils, and seventy-nine local offices. Volunteer associations are under the direct supervision of local offices, but the minister authorizes individual requests to become a volunteer officer. Totally, there are five categories of community supervision, divided according to the legal condition of offenders, one of which belongs to parole (Mori, 2017).

The Rehabilitation Law sought to unify the community supervision laws and improve the rehabilitation function of the system (Fujimoto, 2013). Measures emphasized employment support, promoting offenders' independence, creating healthy habits, and welfare and aid measures (Mori, 2017). The law also strengthened the role of officers to intervene in offenders with special needs and clarified the responsibilities of volunteer officers. Additionally, the reform clarified the requirements for parole suspension and relaxed the conditions for compliant parolees (Fujimoto, 2013).

Rehabilitation under the new law contemplates offender support measures and intervention on concrete deficiencies, contributing to offenders' self-improvement. From this perspective, to achieve rehabilitation it is necessary to improve the social conditions surrounding the offender (Ministry of Justice, 2007). Moreover, the law incentivizes civic participation and clear communication with the public (Mori, 2017). In the case of parole, the rehabilitative component aims to supplement prison programs with educational methodologies applied in the community (Hazama and Katsuta, 2013). Through parole, the authorities can promote the continuity of treatment through special treatment programs for drug addiction and violent behavior (Matsumoto, 2022).

2.2 Parole Under the Current Laws

In the Japanese system, the law does not recognize the application for parole as a right (Mori, 2017). Rather, parole is an administrative benefit that aims to rehabilitate offenders and protect society (Hazama and Katsuta, 2013).

Parole application begins with a prison warden's authorization, which they send to the Regional Parole Councils for examination (Matsumoto, 2022)[44]. Regional Parole Councils analyze the wardens' report and start the investigation to determine the applicability of parole. The councils direct parole officers in the local offices to conduct environmental assessment studies with the collaboration of volunteers to evaluate the offender's projected living address (Mori, 2017). These studies confirm the receptive resources, usually family members and close relationships, informing them on their role and responsibilities during parole (Matsumoto, 2022), as well as a study of the employment prospect, risks to the reinsertion process, and the presence of support resources (Mori, 2017).

For parole approbation, there are two conditions prisoners must meet. The first, an objective condition, is the completion of one-third of the prison sentence, and the second, a subjective condition, is the offender's remorse. Remorse refers to the intention to repair the harm, the attitude of offenders during imprisonment, the response to institutional treatment, and the life plan after release (Fujimoto, 2013). To assess the presence of remorse, Regional Parole Councils study the prisoners' show of repentance, their motivation for reform, the possibilities of reoffending, the community sentiments (opinion of officials, judges, prosecutors, victims, community), and the necessity of the measure to promote rehabilitation[45]. After receiving parole, prisoners with determinate sentences will be under supervision until the completion of the sentence, and prisoners with indeterminate sentences are subject to community supervision until the Regional Parole Council decides to remove the measure (Mori, 2017).

The Regional Parole Councils are the directing agencies of parole assessments. The councils work with a minimum of three officers and a maximum of fifteen, appointed for four-year periods. If the council decides in favor of the measure, it will set general and special conditions offenders must abide by to ensure their continuation in community supervision.

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[44] Chihou Kousei Hogo Iinkai (地方更生保護委員会) in Japanese.

[45] After 2004, Japanese legislation emphasized the importance of victim participation in the criminal procedure, and victims can now communicate their opinions during the parole assessment. (Matsumoto, 2022, p. 45).

General conditions, applicable to every offender under community surveillance, aim to ensure positive insertion and the prevention of recidivism. These conditions include following the instructions of officers and volunteers, communicating the circumstances about work, family, or change in address, and living in approved areas (Matsumoto, 2022). Special conditions are prohibitions and obligations that consider the individual characteristics of offenders. These conditions include the prohibition of entering specific areas and the obligation to participate in treatment programs (Mori, 2017). Special conditions can also include attending special programs for sex offenders, violence, or stimulant drugs and, since 2015, participating in social contribution activities as forms of community work (Probation and Parole Bureau, 2015; as cited in Watson, 2019, p. 48).

The local offices must conduct environmental studies and supervise offenders under community surveillance, including parolees[46]. Officers, volunteer officers, and collaborative institutions verify that parolees follow the parole conditions and conduct support activities to aid their rehabilitation through periodical engagements (Mori, 2017). The officers in charge of community supervision are highly specialized, receiving training in medicine, psychology, education, sociology, and other branches to conduct the support function of community-based treatment. In addition, local offices employ welfare specialists to create support networks and improve cooperation with local institutions (Matsumoto, 2022).

Officers can keep direct contact with parolees, especially in complex cases, but rely on volunteer reports to assess parolees' progress. (Mori, 2017). Depending on offenders' progress, local offices can request the office chief or Regional Parole Councils to vary or cancel the measure (Matsumoto, 2022). However, when parolees need immediate assistance, local offices can take temporary support measures to ensure the continuity of the measure, including housing assistance, access to healthcare, and contacting employment agencies (Mori, 2017).

The local office director dictates life-planning measures to regulate parolees' day-to-day life, made up of orientation and support measures, and complementary measures in

[46] Hogo Kansatu-sho (保護観察所) in Japanese.

urgent cases[47]. Parole's role includes both control and support measures for offenders. Control measures involve contacting offenders to ensure compliance and communicating with employers, family members, and parolees. On the other hand, support measures involve various actions to connect paroles with local resources for employment, housing, and medical attention. These measures promote a strict yet charitable approach to community supervision, expanding the function of community-based treatment from simple supervision to support (Matsumoto, 2022).

2.3 Volunteer Officers

Volunteer Officers' role as supporters of the parole system aims to help offenders gain self-respect and identify with a law-abiding culture. Their contributions range from supporting parole officers to aiding the ministry's communication efforts and participating in community-oriented activities (Mori, 2017). Volunteers meet offenders monthly to confirm their status and give counseling when needed, keeping a detailed account of meetings and any developments.

Volunteer terms are renewable every two years, and although the age limit to become a volunteer is sixty-six years, volunteers can continue practicing until they turn seventy-six (Mori, 2017). People who have been to prison for crimes against the state are not eligible to be volunteers. To become a volunteer, individuals must show that they are people of good moral character, with time availability, stable life, and good health. A committee recommends a candidate to the director of a local office, and in turn, the director passes the recommendation to the Minister of Justice[48]. Once approved, volunteers can work for two years and re-elected until reaching the age limit[49].

Volunteers meet in regional associations and national committees every year. The associations convene an annual meeting to elect a chairman, vice chair, and board members. The board oversees the administrative affairs of volunteer groups. Volunteers receive training

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[47] Seikatsu Koudou Shishin (生活行動指針) in Japanese.

[48] Hogo-shi Senkoukai (保護司選考会) in Japanese.

[49] 14.8% were unemployed or retired in 2018 (Matsumoto, 2022, pp. 37-38).

from the Ministry of Justice to learn about the offender rehabilitation system and basic treatment skills. Special training courses cover general aspects that can equip volunteers with the tools to work with offenders and intervene in day-to-day issues[50].

2.4 Other Developments

2.4.1 Punitive Turn and Community-based Treatment

Despite some researchers claiming that Japan has a rehabilitative and 'paternalistic' punishment model, recent research suggests that the Japanese criminal justice system has been undergoing a punitive turn since the early 2000s[51]. Public demand for harsher punishment after serious crime reports appears to be increasing, even counting on the Ministry of Justice's support. For instance, in 2004, the ministry proposed a general increase in criminal sentences, and regardless of the opposition from criminal law academics and other private actors, the legislative organ approved the proposal and turned it into legislation (Miyazawa, 2016).

The 2004 law raised the upper limit of determinate sentences from fifteen years to twenty and from twenty to thirty for combined prison sentences and cases of recidivism. The law also increased the minimum and maximum limit of crimes such as rape and murder, lowering the lower limit of prison sentences for crimes such as robbery resulting in injury (Miyazawa, 2016). In the case of parole, opposition within and without the Ministry of Justice has thwarted efforts to improve access to parole and increase the time spent on community-based treatment (Segawa, 1986).

However, there are indications that the punitive turn in Japan has not manifested in the entirety of the criminal justice system. Prison sentences have steadily decreased for the past fifteen years, and only a few individuals subject to criminal inquiry go to prison[52]. Moreover, recent data reveals that almost half of the accused sent to prison received prison

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[50] See Akashi 2016; Muraki, 2015; and Otsuka, 2015 (Watson, 2019, p. 50).

[51] Genbatsu-ka (厳罰化) in Japanese.

[52] In 2019, only 1.9% of processed individuals went to prison (Correction Bureau, 2019, p. 5).

terms of less than two years (Foote, 2021)[53]. Most offenders continue to receive suspended sentences and probation, and an average of 50% of prisoners gain approval for parole. In addition, recent reforms introduced the application of 'split sentences' for drug offenders to guarantee extended periods of community-based treatment[54], and in 2022, a new model of imprisonment replaced the penal servitude sanction to emphasize treatment-oriented activities and rehabilitation in penitentiary institutions (Corrections Bureau, 2022).

Additionally, the costs of criminal justice procedures for reoffenders led the authorities to assess the capabilities of crime prevention strategies. After 2008, the government began a series of interinstitutional policies to promote security, social stability, and offender support. For example, in 2009, the Ministry of Labor and Social Security started a cooperation plan with the Ministry of Justice to promote labor opportunities for former prisoners and parolees (Fujimoto, 2013). In 2012, the government also created policies for reducing recidivism in drug offenders and promoting desistance policies by creating networks for interinstitutional cooperation and crime prevention[55]. Further, in 2014, high-level meetings on criminal policy resulted in a plan to improve offenders' rehabilitation[56], part of a policy to foment the social responsibility of community and regional organizations in preventing crime[57].

The treatment of offenders has also been subject to increasing scrutiny. Evidence-based programs and techniques are now an integral part of community programs. For the past fifteen years, the special treatment programs have used Cognitive Behavioral Therapy, applicable during the intervention of sexual offenders, drug addicts, and violent offenders (Ministry of Justice Research Institute, 2021). Scientific literature in the country has also

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[53] Referring to 2018 statistics on Penal Code Offences from the Japanese Government.

[54] Also called “shock probation”, criminal legislation introduced split sentences throughout the US since the 1970s (Fujimoto, 2013, p. 52).

[55] Tachi Naori wo Shien Nettowaku (立ち直りを支援ネットワーク) in Japanese (Matsumoto, 2022, p. 211).

[56] Hanzai ni Modoranai, Modosanai (犯罪に戻らない・戻さない) in Japanese.

[57] Sekai Ichi Anzen na Kuni, Nihon (世界一安全な国、日本) in Japanese (Matsumoto, 2022, p. 211).

looked toward the applicability of Risk-Needs-Responsivity models to assess the needs of offenders and thus improve their quality of life (Matsumoto, 2022). Ideas such as “Through Care” to continue institutional intervention in the community have also gained increasing support (Matsumoto, 2022). More recently, the Case Formulation for Probation is a program available to professional officers during community treatment to assess risk factors[58].

Local studies indicate that community-based treatment requires interinstitutional cooperation and services to improve offenders' status (Matsumoto, 2022). Added efforts to improve offender support include national policies to increase employment, the creation of regional welfare centers dedicated to elderly offenders or offenders with disabilities, and the construction of local offices to support the operation of community surveillance[59]. The Ministry of Justice has also created employment networks to promote employability and incentivize private sector participation in the community supervision administration[60]. This emphasis on employment and welfare-oriented measures uses empirical evidence from public and academic institutions, suggesting that the lack of housing and employment are the main drivers of recidivism (Matsumoto, 2022).

2.4.2 Crime Prevention Policies

Despite the penitentiary reforms of the mid-2000s, in 2006 a series of grievous cases of recidivism led to the reassessment of the crime-preventing capabilities of the criminal justice system. After extensive discussions, in 2016 the government issued the Law to Promote the Prevention of Recidivism to address recidivism, which included an array of

[58] In application since 2021 in the adult system (p. 86, 再犯防止推進白書. 法務省（令和元年）).

[59] Such as the Kousei Hogo Support Centers (更生保護サポートセンター), Senkoku Shuurou Shien Jigyou-Sha Kikou (全国就労支援事業者機構), Shakai Fukki Chousei-Kan (社会復帰調整官), and Chiiki Seikatsu Teichaku Shien Senta (地域生活定着支援センター) in Japanese; By 2019 there were 501 offices to support community supervision and volunteer operations (Matsumoto, 2022, p. 15).

[60] Around 12.500 supporters in 2018 (Matsumoto, 2022, p. 63).

reforms and considered the role of institutions outside of the criminal justice system (Mori, 2017)[61].

After the Law to Promote the Prevention of Recidivism came into effect, in 2018 the government implemented a five-year plan for the prevention of recidivism. The plan organized interinstitutional cooperation between national and regional organizations, at the same time it fomented the participation of civic organizations. The main goal of the plan was to reduce recalls and re-incarceration in the two-year period following release from prison. In 2019, the number of released offenders who returned to prison within that period was 15.7%, falling within the target of the policies (Ministry of Justice, 2021).

2.5 Data

Data on parole is widely available in Japan. The Ministry of Justice publishes reports full of disaggregated data, supplying information on the number of parolees and their characteristics, recidivism reports by year following release, employment records, and other data points that make academic research and policymaking possible. In addition, the ministry creates educational and explicative material for easy comprehension of the institutional goals and operation. Other sources of information come in the form of publicity campaigns that promote the role of the community in preventing crime.

[61] Saihan no Boushi-Tou no Suishin ni Kansuru Houritsu (再犯の防止等の推進に関する法律) in Japanese.

2.5.1 Data on Parole

Table 6. Data on Parole in the Japanese System.

Variable	Description
Penitentiary population	- Highest and lowest number of prisoners since 2000: 80684 (2007); 51947 (2018). - Distribution of the population per criminal court resolution in 2021: 17116 sentenced to prison (1298 split sentence), 448072 under conditional suspension, 29854 under probation (2088 with supervision). - Age distribution of elderly and juvenile offenders from 1991 to 2021: Elderly offenders increased from less than 5% to 22.8%. Juvenile offenders (under 20) from 50% to 9.8%. - Proportion of economically active prisoners (between 20 and 50 years old): 60.9% - Most common offenses in prison: Crimes against property 34.2%, methamphetamines 25.2%, fraud 9.7%. - Distribution of prison sentences per length: Less than a year 20.7%, less than two 34.9%, less than three 25.1%, less than five 13.8%, more than five 5.5%.
Re-incarceration	- Recidivism rates increased from 48.3% in 2004 to 59.7% in 2018, although the absolute number of recidivists decreased in that period. - Although the number of new prisoners decreased from 20467 to 16620 between 2016 and 2020, the percentage of recidivists did not vary significantly (59.5% and 58%).
Parole officers	- By 2016, there were 1375 officers, 960 of which conducted community supervision measures.
Rejection of parole	- Between 1993 and 2017, parole rejections did not surpass five percent of total requests. - In 2021, only 3.6% of parole requests received a negative assessment.
Parole approval	- For the past twenty years, apart from 2009 and 2010, most offenders left prison under parole. - In 2021, 59.2% of prisoners received parole, for 11.195 parolees.
Completion of sentence at the time of parole approval	- Most parolees have completed over 70% of their prison sentence. - Percentage of completion in 2021: 35.1% of parolees completed more than 90% of the sentence: 44.3% of parolees completed more than 80% and less than 90% of the sentence; 19% of parolees completed more than 70% and less than 80% of the sentence; and 1.5% of parolees completed less than 70% of the sentence. - The average completion of indeterminate sentences has increased from twenty years in 1991 to thirty-six years and six months in 2019.
Time spent under community surveillance	- For the past twenty years, 74.9% of parolees spend in average under six months under surveillance and 97.5% less than a year.

Variable	Description
	- Time under surveillance in 2021: 2.8% of parolees spent less than a month, 19.1% of parolees less than two months, 17.1% of parolees less than three, 38.9% of parolees less than six, 19.6% of parolees less than a year, 2.2% of parolees less than two years, and 0.3% of parolees more than two years.
Receptive resources	- Receptive resource for parolees in 2021: Parents (32.7%), spouse (10.3%), relatives (9.5%), acquaintances (7.4%), employer (2.2%), and KHS (35.6%).
Reoffending during parole	- Accumulated reoffending five years following release between 2013-2017: 8.1% in the first year, 26.7% in the second year, 37.8% in the third year, 44.5% in the fourth, and 48.2% in the fifth. - An average of 43.6% of parolees had no employment at the time of reoffending.
Employment support	- The number of paroles without employment between 2016 and 2020 increased from 22.1% to 25%. - Offenders that found employment through support programs between 2014-2018 increased from 35.8% to 45.8%. - Participation of employers in support networks between 2015-2019 increased from 14488 to 22472.
Cancellation of parole	- Cancellations in 2021 (excluding reoffending): 448 (2.5%).

Note: Information extracted from Corrections Bureau (2019), CrimeInfo (2023), Matsumoto (2022), Ministry of Justice Research Institute (2021), Mori (2017), and Yamana (2012).

Table 6 shows general data on the Japanese penitentiary system and data on the parole system. Data shows that offenders who receive a prison sentence are the minority of total offenders, and even when judges rule in favor of imprisonment, most sentences are for short periods. Recent imprisonment trends reveal that the number of juvenile offenders is decreasing while elderly offenders are increasing, reflecting general population trends. Most prisoners are of working age, and the most committed offenses are related to property and drugs.

Data on parole reveals that, although most prisoners receive parole, parolees spend most of their sentences in prison. This information is significant compared to parole regulations, which allow parole applications after a third of the sentence is complete. This fact signals conservative practices in the discretionary role of prison authorities to request parole assessments. Yet, rejections of parole requests are significantly few, pointing to prominent levels of trust between prison authorities and Regional Parole Councils.

Parolees' time spent under community surveillance is short, which may affect the lower levels of reoffending in the first year following release. However, data suggests that offender support measures successfully reduce offending in a brief period but do not carry long-lasting consequences. Significantly, lack of employment negatively influences reoffending, which motivated recent reforms to increase employability.

Parole cancellations, excluding reoffending, are few, which reveals a higher degree of compliance with parole conditions. This data suggests that conditions are not excessive and that parole officers only request the cancellation in grave circumstances.

2.5.2 Data on Volunteers

Table 7. Data on volunteers in the Japanese system.

Variable	Description
Number of volunteers	- By 2015, there were 886 volunteer offices. - The number of volunteers between 2017 and 2021 decreased from 47909 to 46358 (max limit of 52500).
Years of service	- In 2017, more than 50% of volunteers served for more than eight years, nearly 25% served for fifteen years, and over 10% served for twenty or more years.
Average age of volunteers	- In 2017, the average age of volunteers was 64.7 years. 51.4% of volunteers were between 60 and 69 years old, 28.5% were over 70, 15.7% were between 50 and 59, and 4.5% were under 50.

Variable	Description
Occupation	- 27.1% of volunteers were unpaid employees, including housewives, 22.6% had been privately employed, 11.1% were members of religious organizations, 9.2% had worked in service industries, had 7.6% worked in agriculture, forestry, or fishing, and the remaining had worked in other occupations such as manufacturing, teaching, and public institutions.

Note: Information extracted from Ministry of Justice (2021), Mori, (2017), and Watson, 2019

Table 7 shows data on volunteers and their characteristics. Most volunteers are retired or close to retirement, coming from diverse backgrounds, and serving for more than five years. Data reveals that the number of volunteers is decreasing, although it is still close to the maximum number of volunteers allowed. The data indicates a strong commitment, with a significant number of volunteers serving for multiple years. This fact, correlated with the average age of volunteers, requires careful consideration in countries to apply similar volunteer models.

3. Parole Laws in Japan

The Japanese system applies the administrative model of parole supervision, sharing similarities with the USA parole model but with significant differences. Parole boards in Japan are part of the administrative bureaucracy, composed of technical officers who closely collaborate with local parole offices and volunteers. Japanese legislation on parole is extensive, including general and special laws that set up the basic structure of the parole system and comprehensively regulate concrete aspects of parole assessment and supervision.

This section chose the laws on parole and community-based surveillance as the sources of information for the comparative part of the present study. These laws are those currently relevant to the operation of the parole system, excluding past legislation or special laws about other aspects of the community-based treatment system. Lastly, Table 8 shows the most relevant articles concerning functional aspects of the Japanese system. Chapter 4 distributes the contents of this table according to comparative criteria and examines them in detail.

Table 8. Laws on parole and community-based treatment.

Law	Description of content
Criminal Code (1908)	- Article 28. Conditions for parole: Show of remorse and completion of a third of the prison sentence is complete. Parole approval rests in administrative authorities. - Article 29. Reasons for cancellation of parole: New crime and the violation of conditions.
Volunteer Officers Law (1950)	- Article 1. Volunteers aid in the reform and rehabilitation of offenders, striving to enlighten public opinion on crime prevention, and contributing to the welfare of the public and offenders. - Article 2. Max number of volunteer officers throughout the country: 52,500. The Minister of Justice distributes the number of volunteers considering the population, economy, crime situation, and other circumstances. - Article 3. Conditions: Being socially respectable in terms of personality and behavior, having the enthusiasm and time necessary to conduct their duties, living a stable life, and being healthy of body and mind. - Article 4. Prohibitions: Having received a prison sentence, having joined a political party or other organization that advocates the destruction of the Constitution of Japan or the government, and being unable to perform their duties properly due to mental or physical disorder. - Article 7. Volunteer terms are two years, renewable after the completion of each term. - Article 8-2. The head of a Regional Parole Council or a local office designates the role of volunteers. Volunteers must engage in awareness and publicity activities to help improve and rehabilitate offenders, cooperate with private organizations to rehabilitate offenders, collaborate with local government in crime prevention activities, and participate in activities that contribute to the offender's improvement and rehabilitation. - Article 9. Volunteers must be aware of their mission, constantly striving to acquire the knowledge and skills necessary and conduct their duties with a positive attitude. Probation officers must respect the privacy of offenders and must strive to maintain their honor.
Organic Law of the Ministry of Justice (1999)	- Article 9. The ministry has the responsibility to conduct treatment of offenders.
Rehabilitation Law (2007)	- Article 1. Goal: Provide adequate treatment of offenders in society to prevent reoffending, promote social reinsertion, and supply offenders with the support necessary for their rehabilitation, promote crime prevention-oriented activities for the protection of society, and foster individual and public welfare.

Law	Description of content
	- Article 2. National responsibility to incentivize the participation of the private sector and promote the understanding of the goals of community-based treatment. The nation can cooperate with regional institutions and the citizenry to reach this law's goals. - Article 3. To achieve the rehabilitation, the authorities must consider the offender's personal and environmental conditions. - Article 4. Responsibility of the Central Council: Analysis of pardon. - Article 16. Responsibilities of Regional Parole Councils: Approve parole according to Article 28 of the criminal code. - Article 17. Composition of Regional Parole Councils: Minimum of three officers serving three-year periods. - Article 29. Responsibilities of local offices: Supervise offenders, create crime prevention plans, communicate with the public, work to improve the social environment, and promote community-oriented activities. - Article 30. Parole officers have the authorization to request interinstitutional support. - Article 31. Training: Officers receive training in medicine, psychology, education, sociology, and other disciplines necessary for community surveillance and crime prevention. - Article 32. Support role of volunteers. - Article 34. Parole request: Prison wardens contact Regional Parole Councils once offenders meet the requirements of Art. 28 of the criminal code. - Article 35. Parole request: Regional Parole Councils can start the parole assessment without the initiative of prison wardens. - Article 36. Parole assessment: Regional Parole Councils can interview prisoners, relatives, and prison officers. - Article 37. Parole assessment: For the approval of parole the interview of the prisoner is a requirement. Councils can order environmental studies on the projected living address to the local offices. - Article 38. Parole assessment: The councils can request the victim's participation or receive communications from the victim or relatives about the parole application. - Article 39. Parole assessment: The councils have the exclusive faculty to approve parole. - Article 40. Parole: Community surveillance is mandatory. - Article 43. Parole cancellation: Councils can cancel remove parole for parolees sentenced to indeterminate sanctions. - Article 49. Community-based treatment: Community surveillance executes rehabilitation and corrective programs through orientation and support measures.

Law	Description of content
	- Article 50. Community-based treatment: General conditions of community surveillance are mandatory for all offenders. These include keeping a lawful lifestyle, following the orders of officers and volunteers, communicating with officers and volunteers, and informing them on the developments of employment, housing, and other conditions related to their rehabilitation process, keeping a fixed address, or communicating address changes. - Article 51. Community-based treatment: Special conditions adjusted to each offender. These include prohibition from going to determined places or engaging in certain activities, keeping employment, communicating with officers and volunteers whenever they plan to leave the jurisdiction of the local office, receiving specialized treatment, institutionalization in medical clinics or support institutions, and participating in activities for the benefit of the community. - Article 53. Community-based treatment: Regional Parole Councils can cancel special conditions. - Article 57. Community-based treatment: Orientation measures include interviews and other methods to stay connected with the offender. These measures ensure compliance, making recommendations to offenders to motivate law-abiding behavior, or applying for special treatment programs. The local office chief can order intervention measures to ensure compliance. - Article 58. Community-based treatment: Support measures foment a sense of autonomy and responsibility in offenders. These include aid to find housing, employment, medical assistance, adjustment of the environment, and other forms of counseling. - Article 61. Community-based treatment: Officers and volunteers conduct orientation and support measures. - Article 62. Community-based treatment: Local office chiefs can order interinstitutional cooperation and take special emergency measures to aid offenders with specific material issues. - Article 75. Local offices can request the cancellation of parole to Regional Parole Councils.
Regulations on Community-based Treatment (2008)	- Article 7.3. Prison wardens use the following information to assess the possibility of requesting parole: Type of sentence, treatment history, information on the crime, motive, and conduct, victim's condition, life history, physical and mental state, projected address, receptive resource, and possibility of institutionalization in a support institution such as Kousei Hogo Shisetsu. - Article 8. After deciding on the request, the warden must communicate with the Regional Parole Council within ten days. - Article 11. Prison authorities conduct prisoner evaluations every six months to collect information and determine the possibility of requesting parole. - Article 12. The prison warden sends the request when prisoners meet the conditions of Article 28 of the criminal code and Article 34 of the Rehabilitation Law.

Law	Description of content
	- Article 15. The communication to the Regional Parole Council will include personal information, institutional treatment history, and other found in Article 7.3. - Article 16. The warden can cancel the communication if offenders present negative changes in behavior. - Article 17. The Regional Parole Councils are solely responsible for analyzing the communication. - Article 18. The Regional Parole Councils investigate the offender's perception of the crime, work history, physical and mental condition, family environment, relationships, treatment history, the environment of the projected address, condition of the receptive resource, life plan, the victims' condition, and other necessary for the assessment. - Article 19. The Regional Parole Councils can interview the offender directly. - Article 20. The Regional Parole Councils can request the opinion of local offices and external professionals. - Article 24. The victim can express their opinion in a written statement. - Article 28. To approve parole, it is necessary to consider the show of remorse, the motivation for rehabilitation, the low probability of re-offense, and the contribution of parole to the rehabilitation process. Regional Parole Councils can also consider public sentiment against the crime. - Article 42. Local office chiefs create an orientation and supervision plan based on the conditions that led to crime and the rehabilitation resources. They can also change the plan discretionally. - Article 43. The local office chief appoints the officer in charge of the supervision and of volunteer(s), and verifies that the charge fits the capabilities of the volunteer(s). - Article 56. Employment support measures motivate parolees' desire to work and find employment. - Article 57. Availability of support measures to facilitate parolees' independence and life in the community. - Article 65. Local office directors can take urgent measures to address parolees' material necessities, such as homelessness or lack of economic resources to meet their immediate needs. - Article 72-73. Regarding the victim's opinion on parole and their experience after the crime. Written communication directed to Regional Parole Councils - Article 76.2. Cooperation with institutions dedicated to the intervention of drug addiction. Parolees must accept the intervention.

Note: Information obtained from Japanese legislation and freely translated.

4. The Costa Rican System

This section examines the Costa Rican criminal justice system and the background of current parole legislation. A brief historical account contextualizes the role of parole in Costa Rica's criminal justice system and reveals general trends in parole application that influence community-based treatment to this day.

4.1 Development of the Penitentiary Administration

The Costa Rican penitentiary system fully integrates the United Nations' instruments on penitentiary rules and regional human rights laws, creating a guarantee-oriented imprisonment model. The Costa Rican penitentiary model aims to minimize the harm product of imprisonment and guarantee a favorable environment for offenders to find a path toward reform (Carranza, n.d.). However, historically, Costa Rica has lacked special prison laws, instead relying on criminal codes, procedure laws, and institutional regulations to order the structure of its penitentiary systems.

As a former colonial territory in the Spanish Empire until 1821, Costa Rica conserved much of Spain's legal structure, complementing its nascent criminal justice system with South American and Continental European advances. Despite the close similarities with these foreign systems, the nation also underwent separate development plans from neighboring countries. For instance, in 1877, via presidential decree and later by constitutional reform in 1883, the government permanently abolished the death penalty. The only noteworthy attempt to reapply the death penalty came in 1917, after a short-lived coup d'état, but since there have been no significant reform efforts to bring it back (Jinesta, 1940).

Like Japan, Costa Rica underwent a period of political upheaval in the 1940s that motivated the transformation of the political and criminal justice system. In 1949, a new constitutional system followed the 1948 Civil War, resulting in the permanent abolition of the military, the abolition of perpetual punishments, and the reformulation of the criminal justice system. The post-war reforms created a dedicated body of security officers separate from regular police and a body of technicians for treatment responsible for prison administration. In the 1950s, the resocialization model gained strength, resulting in clinical models and stage-

based regimes (Abarca, 2009). This decade also saw the creation of the central structure of the current penitentiary system.

The 1956 Social Defense Law created the National Criminology Institute (NCI), which manages the penitentiary system's technical operation and offender treatment[62]. The NCI promotes an interdisciplinary approach to offender treatment, originally based on the clinical models from the United States and South America[63]. The Social Defense Law also created the Social Adaptation Council as an administrative body for the management of prisons, the direct predecessor to the current office responsible for the administration of the penitentiary system, the Social Adaptation Bureau (SAB)[64].

Originally, the council consisted of specialists in law, medicine, psychiatry, psychology, sociology, social services, and education, which in conjunction with the operation of the NCI, gave shape to a penitentiary system that favored technical approaches to offender treatment and the management of penitentiary institutions. This approach changed the penitentiary apparatus' orientation. Since then, the administration has defended the notion of scientific harmonization of penitentiary policy (Guidelines for Social Defense Council, 1962).

At the same time, the regional human rights system became fundamental to the current Costa Rican penitentiary system (Bedoya, 2022). Costa Rica played a crucial role in ratifying the Pact of San José, the preeminent regional human rights instrument. It also became the permanent seat of the Interamerican Human Rights Court and the ILANUD[65]. The conjoint movement toward technicality in the penitentiary system and integration into the

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[62] Ley de Defensa Social and Instituto Nacional de Criminología in Spanish.

[63] For instance, in the same period, Argentina and Brazil's penitentiary facilities instituted medical, psychiatric, anthropologic, psychologic, and criminological disciplines to conduct offender treatment (Dikötter & Brown, 2007).

[64] Consejo de Adaptación Social and Dirección General de Adaptación Social, in Spanish.

[65] The president at the time pointed out that joining the new human rights-based system brought an end to the old penitentiary ideas (Carazo, 2012; as cited in Bedoya, 2022, p. xii).

regional human rights system led to concrete reforms that molded the current penitentiary system, aiming to protect prisoners' dignity.

4.2 Antecedents to Parole

Since the 19th century, criminal justice reformers have supported correctional and rehabilitative goals. Legislation promoted education as a scientifically grounded practice that could reform offenders into law-abiding citizens (Jinesta, 1940). Notably, despite the interaction with European and North American criminal justice reformers, there were no records of parole laws in Costa Rica until the 1920s. Instead, Costa Rican legislation applied a prison commutation system, or sentence reduction, since 1895, establishing the reduction of the criminal sanctions for good behavior after completing two-thirds of the criminal sentence (Jinesta, 1940).

The first parole record in Costa Rica appeared in the 1924 criminal code. The authorities applied parole to first-time offenders with determinate and indeterminate sentences. For the former, it applied after serving half of the sentence, and for the latter, it applied after serving fifteen years. The Supreme Court managed the approval of parole requests from the Public Ministry. To receive parole, prisoners had to show good conduct during imprisonment, receive a positive assessment, live in a fixed address, and find an occupation (Criminal Code, 1924).

Shortly after, the 1941 criminal code reformed the parole system, although it kept the requirements of first-time offenses and assessment of good behavior. Parole applied after two-thirds of the sentence for sanctions over three years and four-fifths for prisoners with more than one sentence. The release conditions for offenders were keeping a fixed address, avoiding alcohol consumption, and keeping an occupation. The 1941 code also created a Superior Council of Prison Administration, responsible for administering the penitentiary system and conceding parole[66]. Lastly, a significant advance at the time was the introduction of appeals in a criminal court against the council's decisions, which is still a characteristic of the parole system (Criminal Code, 1941).

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[66] Consejo Superior in Spanish.

The post-civil war era was a time for the specialization of penitentiary officers and the strengthening of social sciences' intervention in prison administration (Ministry of Justice of Costa Rica, 2017). The legislation of the 1950s and 1960s created the antecedents for the current community-based surveillance programs in the form of Agricultural Colonies and Semi-open regimes (Guidelines for Social Defense Council, 1962). These programs used clinically based evaluation techniques and progressivity regimes based on benefits and incentives[67].

The community surveillance system included a mix of trust regimes that allowed prisoners to progressively reincorporate to life in the community where prisoners would spend limited time in prison (Guidelines to "La Reforma" Prison, 1976). In the case of parole, the basis for the current parole in Costa Rica took shape in the 1970s with the creation of the Execution of the Sanction Court (ESC)[68], thus cementing a judicial model of parole management with technical orientations (Criminal Procedure Code, 1973). After 1983, the National Probation and Conditional Release Office took over offender supervision offenders, using specialized technical officers to conduct community-based treatment and ensure compliance (The Semi-Institutional Model, 2020).

4.3 1990s Reforms and the Creation of the Fundamental Rights Model

Despite the advances toward an improved penitentiary practice, the criminal justice system underwent critical periods that showed the limitations of the penitentiary project at the time. Systematic issues led to a crisis in the rehabilitative project, culminating in the internal restructuring that created the human rights-oriented model currently in application (Abarca, 2009).

According to national authorities in the early 1990s, the penitentiary system suffered from a constant “state of crisis”. The Minister of Justice pointed to the penitentiary’s concrete

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[67] Distributed in diagnostic, treatment, and evaluation stages that would distribute the population in Max Security, Medium Security, Minimum Security, and Trust Regimes (Guidelines to "La Reforma" Prison, 1976, art. 6).

[68] Juzgado de Ejecución de la Pena in Spanish.

limitations, such as the inability of the system to address the roots of crime as a social problem, the absence of effective mechanisms to rehabilitate offenders, the overreliance on imprisonment, the concentration on pathological aspects of offenders, and the lack of recognition of offenders' potentials. Based on these observations, the Ministry of Justice put in place an Institutional Development Plan to remodel the system in its entirety (1993, [IDP])[69]. The experience of officers and the tenets of critical criminology led to a reformulation that would look to prevent reoffending and encourage de-institutionalization, working toward the creation of human development programs, the protection of family ties, and the promotion of offenders' active participation in the treatment process (Institutional Development Plan, 1993).

The IDP reform was a response to the crisis of the rehabilitative ideal; however, it did not lead toward harsher treatment but toward humanizing penitentiary action (Abarca, 2009). The reform followed international and regional human rights regulations on prisoner rights protections. Moreover, the IDP reflected the spirit of the constitutional protection of prisoner rights guaranteed in the Costa Rican system since 1989[70].

5. Current Situation of Parole

5.1 Structure of the Community Surveillance System

As previously mentioned, the Costa Rican penitentiary system does not have a law to operationalize the penitentiary system. Instead, a collection of national, international, and regional regulations forms the general framework of penitentiary practice, after which the Ministry of Justice models the penitentiary administration. As a result, community surveillance

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[69] Plan de Desarrollo Institucional in Spanish.

[70] 1989 marks the beginning of the Constitutional Court and the strengthening of the international human rights system in the Costa Rican System. The Constitutional Court has authority over matters of constitutional interpretation of national laws and international treaties. Article 48 of the constitution indicates that every treaty that expands human rights protections automatically gains constitutional relevance in Costa Rica (Constitutional Reform, 1989, art. 1); The court referred to the 1955, 1976, 1977, and 1984 resolutions of the United Nations Economic and Social Council as binding and made specific mention of the now called Mandela Rules as fundamental for the Costa Rican penitentiary system (Constitutional Ruling, 1991).

depends on institutional decrees and norms, turning it into an adaptable yet inconsistent system.

After 1993, the IDP created the basic operational framework of the current penitentiary system, distributed between the Institutional (Prisons), Semi-Institutional (Intermediate Institutions), and Community (Probation and Parole) programs. The Semi-Institutional program conceived a community-based intervention in collaboration with personal resources (family and employment) to promote de-institutionalization [71]. The Community program would replace the Probation and Conditional Release Office and implement a model of community-based supervision to incentivize community participation, stimulating the credibility of community-based intervention, and organizing community collaboration[72].

The IDP also reformed the disciplinary areas responsible for prisoner treatment from a clinical base to a support base, promoting the intervention of professional officers with a background in social, educational, and security disciplines [73]. These officers made up interdisciplinary councils in each prison and community-based programs to assess prisoners and apply intervention programs (Rules on Rights and Duties in the Penitentiary System, 1993, art. 16). Further, the new system changed the purpose and methods of prisoner assessment, fostering the active participation of offenders in the development of intervention programs. At the Institutional Level, the interdisciplinary councils assessed offenders every six months to evaluate the possibility of transferring prisoners to the Semi-Institutional Level,

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[71] De-institutionalization recognizes that prison is not the only place for the execution of the penalty. It actively involves the family and the community to address offenders' needs and uses all resources available, whether public or private, to guarantee successful intervention. De-institutionalization also ends stigmatization and paternalism, allowing offenders to take charge of their recovery (Institutional Development Plan, 1993, p. 59).

[72] Currently, there are eleven offices under the Semi-Institutional program and fourteen offices under the Community program nationwide (Dirección General de Adaptación Social, 2009-2022).

[73] These were the technical sections of Orientation, Psychology, Supervision, and Security (Organic Law of the Social Adaptation Bureau, 1993, art. 17).

making community-based treatment accessible to prisoners before parole assessments (Rules on Rights and Duties in the Penitentiary System, 1993). Lastly, the IDP emphasized the relevance of community and family ties as part of the rights protection-oriented approach (Rules on Rights and Duties in the Penitentiary System, 1993). Through the protection of prisoner rights and the emphasis on community ties, the authorities aimed to not only improve the conditions within prisons but also expand the capabilities of community surveillance programs and limit the use of prisons as much as possible (Rules on Rights and Duties in the Penitentiary System, 1993).

Concerning parole, minor changes to the judicial supervision model of parole have occurred since the 1990s. In 1996, a new criminal procedure code reformed the Execution of the Sanction Court (ESC) and strengthened the Judiciary's role as controller of the penitentiary administration. Since the reform, judges in ESC can supervise penitentiary institutions and even direct mandatory measures to correct material deficiencies. More recently, in 2015, reforms to the criminal code introduced electronic surveillance as an alternative measure and a supplementary measure to parole, the latter as a discretionary measure in the hands of ESC judges. However, the operation of parole assessment has not changed since the 1970s.

Judges can receive a request to start parole assessments from prisoners or the NCI, after which they will direct the penitentiary authorities to conduct a technical analysis of the offender and elaborate a recommendation. The analysis includes a diagnostic of the offender and a risk prognostic, as well as information on the crime, the time spent in prison, and the offender's life plan after release (CIJUL, 2011). The ESC judges use this information to support their decision, but they have absolute discretion to approve or reject the measure (CIJUL, 2011).

As has been the norm since the early 20th century, offenders cannot apply for parole. However, after 2016, the crime registry system to keep offenders' records for sentencing and employment introduced new prescription parameters[74]. Depending on the offense and the

[74] The reform immediately eliminates the criminal history of offenders convicted to sentences inferior to three years, after one year for offenders convicted to sentences between three to five years, after three

time passed after the completion of a criminal sentence, even recidivists could receive the qualification as first-time offenders and benefit from alternative measures and parole.

The parole assessment procedure lasts five days after the ESC judge receives the documentation and the conclusion of the parole hearing. The prosecution office, prisoners, and a public defense participate in the parole hearing, during which the defense and prosecution can bring witnesses, family members, friends, and future employers to assess the veracity of the information examined. The ESC judge will reach a decision, subject to appeal, considering the offenders' reflection on the crime behavior during imprisonment, disciplinary reports, relationship with fellow prisoners, educational and work habits, drug abstinence, integration to support groups, relationship with family members and employment prospects (CIJUL, 2011).

Following the parole approval, the Community program receives parolees and begins supervision. Parolees meet officers monthly to report their condition, but officers also stay connected with employers and community members to assess their progress. Officers in this program have less discretion to vary the conditions of parole. If parole officers consider changing the conditions or canceling the measure necessary, they will communicate with the ESC judges in charge and decide if there is merit to change the conditions or cancel parole.

5.2 "Administrative" Parole

Although the Costa Rican criminal code establishes parole in "sensu stricto", recent developments in the criminal justice system have transformed the Semi-Institutional program into a "de facto" administrative parole system. The IDP and subsequent regulations defined the Semi-Institutional as an intermediate program of temporary pernoctation that would collaborate with a network of community resources to support professional interventions, follow-up, and supervision (The Semi-Institutional Model, 2020). However, after 2010, practical reforms transformed the Semi-Institutional program into a form of community

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years for offenders convicted to sentences between five to ten years, and after five years for sentences over ten years (Reform of Criminal Registry, 2016, art. 1).

surveillance resembling administrative supervision for parolees due to the worsening conditions of penitentiary institutions[75].

5.2.1 Legal Foundation

On a legal level, two reforms to the IDP built upon the fundamental rights protection-oriented imprisonment model. The penitentiary regulations of 2007 and 2018 sought to improve the IDP by creating programs for female, juvenile, and elder offenders and expanding on the technical intervention areas of the NCI[76]. The professional intervention of offenders emphasized skills development while looking into the social and personal aspects that led to crime and approached assessment from an interdisciplinary and human rights-based perspective[77].

Further, these reforms affected the operation of the Semi-Institutional program in two specific areas. First, the regulations strengthened the connection between intervention plans in the Institutional and Semi-Institutional programs to ease the transition from life in prison to life in the community[78]. Second, the regulations altered the transfer procedures to decrease

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[75] Author's note: The Semi-Institutional program is also available for offenders who have not yet been to prison or that the NCI considers do not require imprisonment. For these individuals, the Semi-Institutional program becomes an alternative to imprisonment like probation. The present investigation refers to the Semi-Institutional program as a form of administrative parole only when authorities use it as an early-release measure with community surveillance. Although the Ministry of Justice refers to the Semi-Institutional program as an intermediate regime, the present investigation contends that, in practice, Semi-Institutional facilities no longer work as intermediate institutions and thus have established a parallel parole and probation structure under administrative control. This study does not evaluate the legality of the Ministry of Justice's actions, but it cannot exclude the Semi-Institutional program as a parole measure simply due to legal terminology.

[76] From 2007 onward the professional disciplines for penitentiary treatment would become the Education, Health, Law, Social Work, Orientation, and Psychology areas (Penitentiary Regulations, 2007, art. 1).

[77] Penitentiary Regulations, 2007, art. 10.

[78] Penitentiary Regulations, 2007, art. 19.

the workload of interdisciplinary councils and ensure that prisoners received adequate attention[79].

To transfer prisoners to the Semi-Institutional program, interdisciplinary councils in each prison send a recommendation to the NCI. To receive a recommendation, prisoners must require minimal supervision, have sufficient personal and social skills to live in the community, and possess family and employment resources to guarantee supervision[80]. After receiving the recommendation, the NCI decides whether the transfer to the Semi-Institutional program is plausible and, if the result is positive, moves prisoners to the Semi-Institution facility with jurisdiction over the projected address. After receiving the communication of transfer, the interdisciplinary council of the Semi-Institutional facility starts the preparations to begin community surveillance.

The objective of the Semi-Institutional program is to develop strategies to prevent crime and reduce reoffending through the application of interdisciplinary interventions and supervision[81]. Officers from various disciplinary areas observe offenders' progress in the community, intervening on criminogenic factors to prevent reoffending. Further, the program emphasizes the role of family and the community as contributors in the insertion process (The Semi-Institutional Model, 2020).

The Semi-Institutional interdisciplinary council works with offenders to create a life plan based on the recommendations from the NCI, setting the conditions offenders will follow. These include keeping employment, fixed address, and open communications with the

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[79] The interdisciplinary councils could recommend to the NCI the transfer to the Semi-Institutional program after a third of the sentence is complete. The councils conduct a periodical assessment after a third of the sentence for sanctions up to a year, every six months for sanctions up to three years, every year for sentences between three and twelve years, and every two years for sentences over twelve years (Penitentiary Regulations, 2007, art. 25).

[80] Penitentiary Regulations, 2007, art. 34.

[81] The special treatment programs work with offenders who have a history of drug or alcohol consumption, domestic violence, and sexual violence (For more, see The Semi-Institutional Model, 2020, pp. 28; 39; 55-56).

officers, and, in exceptional cases, prohibitions against engaging in activities such as drug consumption (The Semi-Institutional Model, 2020). The interdisciplinary council can independently vary the conditions of supervision and may request the cancellation of the measure to NCI, enjoying a high degree of discretion. Each Semi-Institutional office in the program must establish local institutional networks to assist with offender intervention. However, there are no clear guidelines indicating which types of institutions Semi-Institutional offices can collaborate with or to what extent[82].

5.2.2 Motivation for Change

After 2010, the Costa Rican penitentiary system began to experience elevated imprisonment rates, leading to critical levels of overpopulation in all national prisons. ESC judges considered the elevated levels of overcrowding unconstitutional and ordered immediate corrective measures, in some cases, ordering the temporary closure of prisons until the penitentiary administration found concrete and long-term solutions to reduce the prisoner population[83]. As a response, the SAB and NCI promoted the Semi-Institutional program as a solution for low-risk offenders who could not apply for parole, taking practical measures to partially transform the Semi-Institutional program from an intermediate regime into a parallel parole system.

Originally, the 1993 and 2007 penitentiary regulations set up a temporary pernoctation regime in local facilities belonging to the Semi-Institutional program (The Semi-Institutional Model, 2020). Offenders could live at their registered address during weekdays but had to stay in local facilities during weekends. Some facilities in the program applied, and

[82] Offices depend on general collaboration agreements between the Ministry of Justice and other institutions to supply external services (The Semi-Institutional Model, 2020).

[83] For instance, sentences 104-2013, 1975-13, 10800-14, 401-13, 1005-13, 318-13, 1539-14 of the ESC circuits (Resolutions on the Redistribution of Penitentiary Population, 2015: 2016).

continue to, an agricultural colony model for offenders with no employment option at the time of release, but these are few and of low capacity[84].

The SAB built Semi-Institutional facilities nationwide, at least one in each of the seven provinces, to keep up with the offender population under their care. However, as imprisonment rates rose, transfers to the Semi-Institutional program rose as well, and the facilities could not keep up with the sudden increase in population. As early as 2012, the SAB and NCI began to change the pernoctation regime to one of presentation. Offenders transferred to the Semi-Institutional level would spend the entirety of their sentence in absolute ambulatory freedom, reporting to officers on a periodical basis. By 2017, most Semi-Institutional facilities transitioned to the presentation regime, effectively transforming the program (The Semi-Institutional Model, 2020).

As a reaction to the increase in prisoner population and the closure of prisons by ESC judges, the NCI took extraordinary measures to temporarily augment the number of prisoners that could transfer to the Semi-Institutional program[85]. In 2015, the NCI passed a resolution ordering the interdisciplinary councils in each prison to find low-risk candidates who could safely continue their sanction in the community but were not yet eligible for parole or regular transfer assessments. The candidates would have the following characteristics:

a) Finish the criminal sentence between 2015 and 2020.
b) Have just one sentence.
c) Possess employment options and a projected fixed address.
d) Have no disciplinary reports within the past year.
e) Have no association with international criminal organizations.

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[84] There are only two pernoctation facilities for male adults nationwide (The Semi-Institutional Model, 2020, p. 39).

[85] Valoraciones Extraordinarias in Spanish. Extraordinary measures do not reform the regular assessment procedures and only apply for a limited period. For instance, during the COVID-19 pandemic, the NCI took extraordinary measures to release prisoners to prevent the spread of the disease (Resolutions on the Redistribution of Population, 2020).

f) Have no conviction for trafficking, homicide, sexual violence, kidnapping, or crimes against the public administration (Resolutions on the Redistribution of Penitentiary Population, 2015: 2016).

The 2015 extraordinary measures partially achieved their goal, increasing the number of prisoners transferred to the Semi-Institutional program, but the effort did not yield sufficient results. After a year, the NCI took further measures to enlarge the candidates' pool. In addition to the conditions previously mentioned, the 2016 resolution added the following criteria for eligibility:

a) Finish the prison sentence in less than seven years.
b) Have completed at least one-third of the sentence.
c) Have no more than one criminal sentence in the past ten years.
d) Have no disciplinary sanction in the past six months (Resolutions on the Redistribution of Penitentiary Population, 2015: 2016).

Following these measures, the Semi-Institutional program population grew to its largest extent since its creation, but this increase did not bring about long-term solutions to the problem of prison overpopulation[86].

5.2.3 Practical Reforms

The de-institutionalization procedures through the Semi-Institutional program are relevant to prisoner rights' protection (Dirección General de Adaptación Social, 2009-2022). De-institutionalization allows prisoners to complete their sentences in less restrictive environments, improves the condition within prison walls, or prevents a radical reduction of quality of life (Dirección General de Adaptación Social, 2009-2022). However, it is necessary to consider to what extent de-institutionalization measures in Costa Rican have incidentally created a parallel parole system.

Agencies within the criminal justice system and the civil sector were critical of community surveillance measures, leading to political tension between 2015 and 2016

[86] See Table 10, page 131.

(Bedoya, 2022). After the orders of 2015, the press criticized the ministry and interpreted the extraordinary measures as policies of massive prisoner release (Bedoya, 2022). At the height of the conflict, the General Prosecutors Office even suggested that prosecutors would ask for higher terms of imprisonment to prevent the application of administrative release measures (Bedoya, 2022). The minister at the time would receive threats for her support of early-release measures and detractors accusing her of putting innocent lives at risk (Bedoya, 2022). Despite the ministry's claim that most offenders in the Semi-Institutional program concluded their sentence successfully and that only an insignificant minority reoffended, the evidence presented did not ease the negative perceptions against the program. Critically, there are insufficient evidence-based studies on the Semi-Institutional program (Bedoya, 2022), and the lack of factual research has impaired the ministry's arguments in favor of early-release measures (Bedoya, 2022).

Although Costa Rican regulations do not consider the transfer from the Institutional program to the Semi-Institutional program as parole per se, an examination of the current de-institutionalization measures reveals that the intermediate quality of Semi-Institutional facilities is no longer present. Although the Ministry of Justice defines the Semi-Institutional program as one of gradual insertion and lower contention framed in the social and work environment (Consejo Nacional de Rectores, 2017), there are remarkable similarities between the program's current application and that of administrative parole.

The ministry considers the transfer to the Semi-Institutional as a benefit in the form of regime change, as would be the case in transfers between Mid-security to Low-security levels (Constitutional Ruling, 1993). However, for the present investigation, this position lacks merits. The Semi-Institutional program has become a form of community surveillance where offenders enjoy ambulatory freedom with low levels of supervision and under a conditional regime (The Semi-Institutional Model, 2020). As a result, the SAB and NCI currently use the Semi-Institutional program as an alternative early-release measure under administrative control. Therefore, this study includes in the examination of parole laws the Semi-Institutional program, even though current legislation does not define it as parole.

5.3 Other Developments

Researchers suggest that Costa Rica has been undergoing a punitive turn for the past thirty years. Criminal law reforms have emphasized criminalization, increased the upper limit of prison sanctions, and shortened criminal procedures to decrease the time between accusation and sentencing. Moreover, the Ministry of Justice has been subject to criticism from political and civilian sectors that view early-release measures as policies that endanger the public. Importantly, the country lacks cohesive and comprehensive criminal policies to tackle rising criminality. These developments endanger Costa Rica's position as a peaceful nation within the Latin American region.

5.3.1 Punitive Turn

In Latin America, the “Giuliani Doctrine”, the “broken window theory”, and the “zero tolerance” policies gained popularity among policymakers during the 1990s (Bedoya, 2022). Since then, Latin American prisons have become the most overpopulated worldwide, with some countries in the region even showing overpopulation rates of over 200% and 300% (Carranza, n.d.). Despite the worsening conditions of Costa Rican penitentiary facilities, regional researchers consider Costa Rica as one of the countries with more manageable problems and one of the region's "least bad" penitentiary systems (Carranza, n.d., p. 2).

Although data shows an upward trend in criminality for the past fifteen years, especially in homicidal violence, research suggests that the rise in prison population in Costa Rica is not exclusively due to criminality (PEN, 2017; as cited in Bedoya, 2022, p. xx). The 1990s political discourse revolved around security concerns in the nation, a response to continental shifts toward security issues, and after 1994, Costa Rican policymakers began to favor imprisonment as a crime-fighting measure (Bedoya, 2022). Since then, more than twenty criminal and criminal procedure codes' reforms have strengthened the state's punishment capabilities[87]. These reforms would have immediate effects on imprisonment trends. By 1995 and 1996, a United Nations mission to Costa Rica warned the penitentiary authorities of the need for urgent measures to prevent overpopulation (Abarca, 2009). Thirty

[87] See MNPT, 2016, and PEN, 2017 (Bedoya, 2022, p. 5).

years later, Costa Rica is among the top twenty nations with the highest imprisonment rates in the world (Feoli and Gómez, 2022).

Collective security and “tough on crime” policies became the source of support for penal policy reform (Huhn, 2012; as cited in Feoli and Gómez, 2022). After an uptick in homicides registered between 2007 and 2009, the Legislative branch reformed the criminal procedure code to create “Flagrancy” tribunals to accelerate sentencing[88]. Research suggests a correlation between the start of these tribunals and the increase in prisoner population[89]. After 2010, an examination of criminal sentences revealed increasing remand requests and a high number of sentences of less than five years (Huhn, 2012; as cited in Feoli and Gómez, 2022). Reformers claimed that procedural reforms were necessary to protect the victim's interest, diminish impunity, and accelerate the process when there was clear and concrete evidence of culpability (Beltrán, 2016; as cited in Bedoya, 2022, pp. 24-25). According to researchers such as Carranza, the unequal distribution of criminal justice reforms is a major contributor to the increase in Costa Rica's prison population. Reforms made the procedures more efficient but emphasized the use of prison and did little to improve the conditions of the penitentiary system (n.d.).

Moreover, the construction and improvement of penitentiary facilities had stagnated during the years leading to 2010. The Ministry of Justice was subject to scrutiny from national and regional authorities, which pointed to the constitutional responsibilities of the Costa Rican government to sustain a penitentiary administration respectful of fundamental human rights[90]. Even the Interamerican Human Rights Commission's representatives were concerned about the effect of the 2009 justice reforms. After visiting facilities nationwide, members of the

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[88] Tribunales de Flagrancia in Spanish.

[89] Flagrancy tribunals hold special procedures for suspects caught in flagrante delicto. The procedure is shortened and based on the testimony of security officials and evidence accessible at the time of the arrest. The PEN report of 2017 pointed to these tribunals as responsible for the increase in prisoner population (Feoli & Gómez, 2022, p. 12).

[90] For instance, the Constitutional Court rulings 1655-2016 and 10290-2018 indicated the need for new prisons. (As cited in Constitutional Ruling, 2021).

commission recommended that the country apply comprehensive improvements to the criminal justice system in its entirety[91].

However, just as with Japan, assessing the Costa Rican system as punitive requires a balanced approach. Despite claims pointing to the punitive turn and elevated levels of incarceration, Costa Rica's penitentiary administration has looked toward solutions respectful of prisoner rights and oriented toward the goals of reinsertion and peaceful resolution of conflicts.

Data shows that criminality and imprisonment rates increase relative to widening social inequality (Bedoya, 2022). Such is the case in Costa Rica, where most prisoners have little formal work experience and education compared to non-prisoner nationals (PEN, 2017; as cited in Bedoya, 2022, p. 6). To improve prisoners' conditions, the Ministry of Justice has promoted welfare measures, educational programs, and the internationalization of the penitentiary system to improve interventions and minimize harm (Bedoya, 2022). Additionally, in recent years, the legislative branch has issued laws on alternative sanctions to ease the conditions of penitentiary facilities. In 2014, the country introduced new alternative measures through electronic surveillance to replace short prison sentences or support community surveillance during probation and parole (Electronic Surveillance Law, 2014), and in 2018, the legislature also introduced restorative justice programs for the treatment of offenders suffering from drug addiction (Restorative Justice Law, 2018).

Furthermore, there have been joint efforts between the Ministry of Justice and the legislative branch to promote crime prevention and alternatives to imprisonment[92]. In 2009, a law created the National System for Violence Prevention and the Promotion of Social Peace

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[91] Members of the commission pointed to the creation of new sanctions, increasing the upper-limit of prison terms, eliminating conditional sentencing for some crimes, the creation of the flagrancy procedure, and the amplified remand criteria as factors behind the penitentiary problems (CIDH, 2016).

[92] Since 1998, the Ministry of Justice has actively promoted the creation of crime prevention networks. For example, decree 27228-j of 1998, decree 33149-J of 2006, and decree 33453-J of 2006 formed the foundation for the current system for the promotion of peace. (Dirección General de Adaptación Social, 2006-2020)

as a special department under the administration of the Ministry of Justice (Dirección General de Adaptación Social, 2006-2020)[93]. The law's goal was to centralize crime-preventing strategies in a single department to coordinate plans for the promotion of social peace, manage alternative conflict resolution programs, incentivize the participation of civic society in criminal justice, communicate with NGOs and peacemaking organizations, and reduce violence through preventive actions. The ministry has also developed local institutions to promote peacemaking, called the "Houses for Justice"[94], as places for the promotion of peace and restorative justice (Law for the Promotion of Peace, 2009).

Another key aspect to evaluate when studying the Costa Rican system is the presence of balancing institutions charged with supervising the penitentiary administration. National and regional institutions periodically monitor penitentiary facilities, issuing recommendations or, in urgent cases, mandatory corrective orders. For example, the Constitutional Court has ruled against the administration and in favor of prisoners living in overcrowded spaces[95]. The court has repeatedly stated that the contents of international and regional human rights instruments are of mandatory application as laws of the land, ordering that the Ministry of Justice adjust its internal regulations to their contents[96]. The intervention of external agencies forced the Ministry of Justice to take immediate action because not following direct judicial orders would break the institutional system (Bedoya, 2022).

Lastly, human rights-oriented approaches' support for prisoner treatment is still strong within the Ministry of Justice. The ex-minister, Cecilia Sanchez, spoke against reductionist

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[93] Sistema Nacional para la Prevención de la Violencia y la Promoción de la Paz Social in Spanish.

[94] Casas de Justicia in Spanish.

[95] The Constitutional Court began working in 1989 and since has been an active controller of the penitentiary system. It is part of the Supreme Court, charged with constitutional interpretation and the protection of constitutionally recognized rights (Constitutional Ruling, 2018).

[96] See sentences 2983 (2006), 11765 (2012), 7484 (2012), 18911 (2014), and 11504 (2017) on the foundational role of the Mandela Rules, the American Human Rights Convention, and the Recommendations from the European Committee for Criminal Problems in Costa Rica's penitentiary system (Constitutional Ruling, 2018).

theories of crime and pointed to social inequality as the source of criminality in the nation (Bedoya, 2022). The minister stated that "it is necessary to elevate peaceful and democratic principles" to solve social conflicts (Sánchez, 2015; as cited in Bedoya, 2022, p. 78). To this end, the Ministry of Justice emphasized the role of social insertion policies in the 2018 penitentiary regulations, which also expanded the list of prisoner rights the administration had to protect (Bedoya, 2022). The new regulations also highlighted the need to understand the structural causes of criminality, inequality, and social exclusion and work toward building an environment of peace, dialogue, and respect for human rights.

5.3.2 Absence of a Comprehensive Law

The lack of proper penitentiary laws in Costa Rica is an abnormality within the region (Feoli and Mora, 2020). Without a body of superior laws to regulate the penitentiary regime, the Ministry of Justice has had to resort to instrumental regulation, making enforcement of penitentiary rules challenging from various perspectives (Penitentiary Code Bill, 2013). Ex-minister of Justice Sánchez stated that the absence of superior penitentiary law weakens the penitentiary system and its goals. Clarity in criminal and penitentiary legislation is essential for punishment respectful of the values and principles of the rule of law (Feoli and Mora, 2020). Although the 2018 penitentiary regulations proposed a normative order based on humanist policies and internationally recognized human rights (Ministry of Justice of Costa Rica, 2017), the regulation is only temporary until the Legislature passes a Penitentiary Law.

The Ministry of Justice has tried to organize special interinstitutional commissions to create a draft for a penitentiary law, but it has been unsuccessful. Moreover, the ministry has suggested that a single law is insufficient (Penitentiary Code Bill, 2013). The absence of a solid normative structure has also received attention in the Supreme Court. The Constitutional Court has ruled on the topic, pointing to the Legislature's responsibility to create a body of penitentiary laws[97]. Despite the urgent need for new laws, recent efforts to create a comprehensive project have been unsuccessful.

[97] See for example, rulings 8417 (2020), 21335 (2019), 19730 (2019), 1531 (2018), and 19582 (2015) (as cited on Constitutional Ruling, 2021).

In the past fifteen years, there have been three attempts to create a penitentiary law. First, in 2007, Legislature members presented a project for discussion. However, the proposal had two defects that made it inviable. The proponents had not consulted the Ministry of Justice and thus did not receive their support. Second, the Department of Technical Services of the Legislature and the Supreme Court found irreparable issues of constitutionality. Later, in 2012, members of the Supreme Court, the General Prosecutor Office, and the ESC organized an inter-institutional commission to create a penitentiary law (Penitentiary Code Bill, 2013). The commission used the 2007 penitentiary regulations as a basis for the proposal, conserving the penitentiary administration's basic structure.

The proposal included the following characteristics related to the community surveillance system:

- The Prosecution and victims could take part in parole assessments,
- Treatment programs and penitentiary regimes had clear classification criteria,
- Incorporated an office for communication with civil organizations on the operation of the system,
- Special procedures for the solicitation of parole,
- And clearly defined conditions for parole (Penitentiary Code Bill, 2013).

Despite the positive aspects of the proposal, detractors considered that it tried to regulate too many aspects of the penitentiary instead of creating a foundational project. Moreover, the Ministry of Justice was not fully supportive of the initiative. Despite bringing clarity to the community-based programs, the ministry considered that the project tried to do “too much” and that it would be preferable to create two laws to avoid complications. Also, the ministry objected to changes made to the Semi-Institutional system. The Prosecution and the ESC considered that the transfer to the community-based programs required the authorization of a judge, as was the parole case. However, the ministry's representatives believed that the transfer to the Semi-Institutional program should remain in the hands of the penitentiary administration. Eventually, the divergence of opinions led to halting discussions, and the proposal would not reach parliamentary discussion (Penitentiary Code Bill, 2013). A last attempt to create a penitentiary law came in 2022, but it has not gained sufficient support, and discussions have stalled again.

Currently, it has not been possible for the penitentiary administration and the judiciary to agree on the role each institution has in managing community-based programs. The judiciary argues for strict judicial control to monitor the legality of state operations. ESC judges state that the Semi-Institutional program as an alternative parole system requires judicial intervention according to the model of judicial supervision legislators envisioned in the criminal legislation. On the other hand, public officials from the Ministry of Justice argue that excessive intromission of the judiciary into the penitentiary would encumber the administration's operation (Penitentiary Code Bill, 2013). From their perspective, the Semi-Institutional program is not equivalent to parole but is akin to a regime change for the benefit of the prisoner population. As a result, the disagreement between the judiciary and the penitentiary administration has impeded any compromise despite efforts to reach a middle ground[98].

5.4 Data

Compared to Japan, data from the Costa Rican system is less comprehensive and more difficult to access. Systematic and periodic compilation of penitentiary data in Costa Rica did not begin until 1997, and there have been constant changes in technique and presentation. Although the Ministry of Justice publishes annual reports, in recent years, these reports focus on prisons and give little insight or analysis of the information disclosed.

Before 2018, reports included commentaries and explanations of the data, but since then, this practice has ceased to exist. Moreover, reports include limited information on parole and the Semi-Institutional program, referring exclusively to population reports and vague data on reoffending. In addition, there are few external reports on parole or community-based programs; thus, the data in Costa Rica depends entirely on government reports.

[98] There have been efforts to reach a compromise by introducing judicial supervision of the Semi-Institutional program in particular cases, but these proposals were not successful (Penitentiary Code Bill, 2013, pp. 679: 843: 912).

5.4.1 Criminal Justice

Table 9. Data on Criminal Justice in Costa Rica

Variable	Description
Crime reports	- Since 2003, crime reports have increased drastically. In 2003 there were 46.410 crimes reported, growing to 83.943 cases in 2013, and then again in 2022 with 107.727 cases reported.
Homicide	- In 2016, homicides per 100.000 inhabitants reached 10.9 cases, rising to 12.2 in 2017, but experiencing a slight decline in 2018, 2019, and 2020. Since then, rates continue to increase, reaching 11.4 cases in 2021 and 12.6 cases in 2022.
Recidivism in the Judiciary	- Between 2009-2015 recidivism in criminal courts ranged between 18-23%.
Trends in sentencing	- Guilty verdicts from 2005 to 2008 numbered 4.000 cases. After 2010, the number of guilty verdicts began trending upward, breaking 6.000 cases in 2011, 8.000 cases in 2013, and passing 10.000 cases in 2018. - Guilty sentences under five years of imprisonment in 2016 numbered 2.630 cases, 2.582 in 2017, and 2.986 in 2018; sentences over five years to ten in 2016 numbered 1806, 1.600 in 2017, and 1.970 in 2018.

Note: Information extracted from Bedoya (2022), Consejo Nacional de Rectores (2020), and OIJ (2017-2022).

Table 9 shows data on criminality and criminal sentencing. The information reveals that crime reports and criminal sentences have grown concomitantly. Homicidal violence shows no signs of abating, suggesting a decrease in the standard of living of the general population. Judicial data reveals that almost half of guilty offenders would go to prison, and one in five prisoners would spend more than five years imprisoned.

Table 10 shows general penitentiary data. Imprisonment rates in Costa Rica are among the highest in the region despite having one of the smallest populations. This reflects the overreliance on prison in the criminal justice system. In addition to the high imprisonment rates, prison overpopulation has grown after the introduction of procedural reforms that increased the capability of criminal courts to dictate verdicts in shorter periods. In the past fifteen years, the number of prisoners and those participating in community programs has consistently increased. Noticeably, the penitentiary population under probation and other alternative sentences in the Community program make up the largest number of offenders in the Costa Rican penitentiary system.

Data reveals that the NCI is reluctant to recommend parole under judicial supervision compared to transfers to the Semi-Institutional program. This may be due to the control administrative authorities have over the population transferred to the Semi-Institutional compared to the Community program and the right to request prisoners have despite not meeting parole requirements. Data shows that offenders in the Semi-Institutional program reoffend at significantly lower rates compared to those released after completing the prison sentence. Yet, information on recidivism from the Community program is unavailable.

5.4.2 Penitentiary System

Table 10. Data on the Penitentiary System in Costa Rica.

Variable	Description
Imprisonment rates	- Costa Rica also has among the highest rates of imprisonment with 302.33 prisoners per 100.000 inhabitants, well above the regional average of 254.26.
Overpopulation rates	- Overall overpopulation grew from 17% in 2010 to 41% in 2015. Currently (June), overall overpopulation sits at 7.4%, but there are still prisons that hold over 120% of overpopulation.
Average penitentiary population (excluding the Community program)	- The average annual population increased from 6.691 prisoners in 2003 to 13.560 in 2013 and then peaked at 16.017 in 2019. Currently (June 2023) the population stands at 14.858.
Average penitentiary population (Including the Community program)	- The average annual penitentiary population grew from 15.069 in 2009 to 31.221 in 2013, and peaked at 36.173 in 2017. Currently (June 2023) the population stands at 34.062.
Population in the Semi-Institutional program	- Between 2006-2014, 10.477 prisoners transferred to the Semi-Institutional program. - Average population: 762 in 2009, 1164 in 2011. 2170 in 2013, 3395 in 2014, 4727 in 2015, and peaked at 4872 in 2016. Currently (June 2023) the population stands at 2.552.
Recidivism in the Semi-Institutional program	- Between 2006-2014, out of 10477 prisoners in the Semi-Institutional program, 86% successfully finished the program and 3% reoffended.
Positive recommendations for Semi-Institutional	- Out of 1821 requests in 2020, 1044 cases approved; Out of 1683 requests in 2021, 1325 cases approved; and out of 1563 requests in 2022, 205 cases approved.
Positive recommendations for parole (NCI)	- Out of 2199 cases reviewed in 2019, 199 cases recommended for parole; Out of 2048 cases reviewed in 2020, 159 cases recommended for parole; Out of 2199 cases reviewed in 2021, 199 cases recommended for parole; and out of 2272 cases reviewed in 2022, 226 cases recommended for parole.
Cancellation of Semi-Institutional	- 2019: 211 cases for reoffending and 121 for non-compliance; 2020: 78 cases for reoffending and 175 for non-compliance; 2021: 24 cases for reoffending and 139 for non-compliance; 2022: 5 cases for reoffending and 352 for non-compliance.
Recidivism rates in the penitentiary system	- 2019: 20.4% in the Institutional program and 6.9% in the Semi-Institutional program; 2020: 13.4% in the Institutional program and 7.4% in the Semi-Institutional program; 2021: 15.4% in the Institutional program and

Variable	Description
	5.6% in the Semi-Institutional program. 2022: 14.6% in the Institutional program and 5% in the Semi-Institutional program; June 2023: Total of 27.3% recidivism.
Officers in the penitentiary	- In 2017 Costa Rica had a rate of 5.1 prisoners per officer (regional average of 10). 21.5 prisoners per technical official, 719.8 prisoners per medic, and 15115 prisoners per psychiatrist. - Eighty-three medics for institutional care. - 14.29% (791) of penitentiary officers are professional and 69.35% (3839) are security officers.
Treatment programs	- Between 2014 and 2017 an average of 40% of prisoners took part in academic activities. - Average percentage of prisoners working between 2014 and 2017: 65%.

Note: Information extracted from Bedoya (2022), Carranza (n.d.), CIJUL (2011), and Dirección General de Adaptación Social (2009-2022).

6. Parole Laws in Costa Rica

Legislation on parole in Costa Rica is not as extensive as its Japanese counterpart but shows signs of flexibility in its operation grounded on fundamental rights protection and minimizing harm. The criminal code makes up the judicial supervision's basic framework, setting up parole requests as a right but restricting its access to first-time offenders. Penitentiary regulation establishes the administrative supervision system, a flexible measure to ensure access to community-based treatment for offenders who cannot request parole or show significant signs of reform.

The Costa Rican penitentiary system depends on technical professionals to conduct administrative work and offender treatment; thus, all assessments and forms of supervision are under specialized officers inclined toward offender support rather than control. A critical gap in the Costa Rican system is the lack of comprehensive guidelines for inter-institutional cooperation and community involvement in community supervision. Moreover, the Ministry of Justice does not integrate the operation of Semi-Institutional and Community programs' offices with other preventive and peacemaking-oriented institutions.

This section chose norms on parole and community-based treatment as the sources of information for the comparative part of the present study. These norms are those currently relevant to the operation of the parole system, excluding past legislation or special laws about other aspects of the community-based treatment system. Lastly, Table 11 shows the most relevant articles concerning functional aspects of the parole system. Chapter 4 distributes the contents of this table according to comparative criteria and examines them in detail.

Table 11. Laws on parole and community-based treatment in Costa Rica

Law	Description
Criminal Code (1970)	- Article 50. Sanctions: Prison, fine, public utility services, electronic monitoring, restorative justice for drug addicts. - Article 51. The upper limit of prison sanctions is fifty years. Rehabilitation as the goal of imprisonment. - Article 64. Prisoners and the NCI can request the parole assessment from ESC judges after completing half of the sentence. - Article 65. Offenders with no prior convictions over six months of punishment, who receive a positive assessment from NIC, show good conduct, and participated in occupations and treatment, can receive parole. - Article 66. Judges can impose the conditions based on the NCI recommendations. Judges can attach electronic monitoring to parolees. - Article 67. Non-compliance and reoffending (crimes punished with more than six months of prison) result in the cancellation of parole. - Article 68. If parole is canceled, prisoners must finish the remaining time of imprisonment at the time of cancellation.
Administrative organization of the Ministry of Justice and Peace (2018)	- Article 4 Vice-Ministry of Justice: Supervision of SAB, penitentiary system, national policies on criminality and delinquency. - Article 5 Vice-Ministry of Peace: Promote a culture of peace and coordinate programs for crime prevention. - Article 36 Process for Peace Promotion: Process for Culture of Peace, Process for Prevention of Juvenile Violence, Process for Observatory of Violence - Article 37 Process for Culture of Peace: Implement UN recommendations to revert violence, develop actions against the use of firearms, develop of informative campaigns for communities on peace cultures, and coordinate interinstitutional reports to promote the culture of peace. - Article 41 National Bureau of Alternative Resolution of Conflict: Implement alternative resolution of conflict
Penitentiary Regulations (2018)	- Article 3. Application of due process in the penitentiary. - Article 25. Professional treatment sections: Law, Education, Orientation, Psychology, Health, and Social Work. - Article 33. Penitentiary regimes: Institutional, Juvenile, Female, Elderly, Special Intervention Units, Semi Institutional and Community.

Law	Description
	- Article 49. Conditions for Semi-Institutional program: Lower physical condition and outside resources. Offices collaborate with community networks to support offenders. - Article 50. Objective of the Semi-Institutional program: To develop professional intervention with the participation of support networks and the direct interaction with the offender's family and employment resources. - Article 123. Restorative Justice in the penitentiary system. - Article 126. Prisoners can participate in the restorative justice program if they have less than ten years remaining of sentence and signed an agreement to continue in the program for at least fifteen months. - Article 129. Prisoners who participate in restorative justice programs can transfer to lower contention levels. - Article 164. Professional Intervention: Has the goal of developing skills and abilities for life in freedom, and promoting comprehension of the social and personal aspects that led to crime. Professional intervention requires an interdisciplinary approach respectful of human rights. - Article 165. Principles in professional Intervention: Scientific character, direct relationship with prisoners, individualized intervention based on disciplinary standards, interdisciplinary character, continuous, constant, dynamic, and modifiability. - Article 166. The interdisciplinary Council determines intervention plans considering personal characteristics, personal and social conditions, type of crime, victimological studies, sanction, cohabitation capacity, and contention needs. - Article 172. The NIC can transfer prisoners to the Semi-Institutional and Community programs. - Article 179. Prisoners with less than eight years remaining in the criminal sentence and with positive recommendations can transfer to the Semi-Institutional program. - Article 180. Periodical assessments for transfer vary according to prison sentences.

Note: Information obtained from Costa Rican legislation and freely translated

Chapter 4

Foreword

This chapter assesses Japan and Costa Rica's laws examined in Chapter 3, based on the comparative criteria developed in Chapter 2. Each criterion includes variables to facilitate the comparison and detail the operational design of the parole systems. After the comparison, an analysis of the criteria from the perspective of parsimony in the criminal justice system reveals the strengths of each system in promoting social reintegration.

1. Normative Development

The Normative Development criterion serves to identify the structure and detail of parole regulations. Normative development refers to the availability of parole regulations and the limitations on criminal justice institutions to protect citizens against unlawful treatment. To effectively promote parole's support role penitentiary regulation requires concrete and clear rules to prevent unfairness and arbitrariness. Comprehensive regulations leave little ground for interpretation and improve the operation of legal systems and thus become the first line of defense against state excesses.

The first variable in Normative development is Hierarchy. Tokyo Rules emphatically state that parole systems require clear and detailed regulations at a hierarchical level. Community-based surveillance cannot operate solely based on institutional norms; it necessitates high-ranking laws that can lay a stable and long-lasting foundation. Laws emanating from the legislature can create obligations and responsibilities for organizations that ministerial decrees or institutional regulations cannot.

The second variable refers to the specialized content of parole regulations. Whether a system requires individual laws for each aspect of parole is not a sine qua non requirement; specific sections on general laws might be comprehensive enough to regulate parole. However, laws on concrete aspects of community-based surveillance can further improve and solidify the operational structure of parole and strengthen the support role of institutions outside the criminal justice system.

To assess the Normative Development criterion, Table 12 shows Hierarchy, as the different regulatory levels that structure the parole system, and Table 13 shows Specialization, as the content-oriented design of regulations on parole.

1.1 Hierarchy

Table 12. Normative Development in Japan and Costa Rica: Hierarchy.

Variable	Japan	Costa Rica
Hierarchy	A. Constitutional and International Law a. Prohibition of torture and limits to the death penalty. b. Signatory to Tokyo Rules. B. Legislation a. The Criminal Code establishes parole. b. Law that created the Ministry of Justice incorporates the basic structure of parole supervision institutions. c. Prison Law regulates parole evaluation procedures. d. Rehabilitation Law regulates the operation of Regional Parole Councils, local offices, and treatment. e. Volunteer Officers Law regulates the operation of volunteers in the parole system. f. Laws to regulate support institutions for parolees and offenders in the community. C. Decrees and norms a. Ministerial decrees to regulate treatment programs. b. Special operational regulations for the community-based system	A. Constitutional and International Law a. Prohibition of torture, perpetual punishments, and death penalty. b. Signatory to Tokyo Rules. B. Legislation a. The Criminal Code establishes parole under judicial supervision. b. The Criminal Procedure Code establishes the faculties of ESC judges. C. Decrees and norms a. Penitentiary Regulations establish the community supervision programs' operation. b. Institutional norms modify the Semi-Institutional program to operate like administrative parole.

Note: Information extracted from Table 8 and Table 11. See Chapter 3.

1.2 Specialization

Table 13. Normative Development in Japan and Costa Rica: Specialization

Variable	Japan	Costa Rica
Specialization	A. Parole programs. a. Laws and regulations dedicated to the regulation of parole: i. Selection criteria. ii. Assessment criteria. iii. Assessment procedures. iv. Treatment procedures. v. Cancellation procedures. B. Parole Officials. a. Laws dedicated to the regulation of officers and supporters: i. Officers' qualifications. ii. Parole officers' functions. iii. Administrative integration and qualification of superior agencies. C. Supporters. a. Laws dedicated to the regulation of support institutions and organizations: i. Volunteers' qualifications. ii. Volunteers' functions. iii. Support institutions delimited. iv. Specific rules for special interest institutions.	A. Parole programs. a. Laws and regulations dedicated to the regulation of parole: i. Selection criteria. ii. Assessment criteria. iii. Assessment procedures. iv. Treatment procedures. v. Cancellation procedures. B. Parole Officials. a. Regulations dedicated to the regulation of parole officers and supporters: i. Officers' qualifications. ii. Parole officers' functions. iii. Administrative integration and qualification of superior agencies.

Note: Information extracted from Table 8 and Table 11. See Chapter 3.

1.3 Key Points

A. Common traits:

- Criminal codes establish the parole system, although institutional decrees from Costa Rica's Ministry of Justice also created a parallel system.
- Decrees from both ministries create the treatment programs and operationalize the community-based surveillance programs.
- Although the Japanese system is more comprehensive, both systems similarly define the basic structure of parole assessment and regulate the operational faculties of parole officers and parole officials. Parole officials' qualifications receive special attention in both systems.

B. Unique to the Japanese system:

- High-level laws regulate the operation of parole, including specialized legislation for community-based programs and volunteer officers.
- Responsibilities and faculties attached to external institutions.
- The law that created the Ministry of Justice incorporates the community-based program's administrative structure, but the Legislature defined it.
- Special laws regulate the intervention of support institutions and the interaction between criminal justice institutions and private organizations.

C. Unique to the Costa Rican system:

- Lack of legal specialization; regulated and operationalized through decrees and institutional norms.
- The criminal code sets the judicialization of the parole process, but regulation from the Ministry of Justice operationalized the community supervision regime.
- The Ministry of Justice’s technical instruments define administrative parole's faculties, operation, and goals.
- The penitentiary regulations have a limited scope to assign responsibilities to external institutions.

2. Disciplinary Intervention

This section concerns disciplinary intervention in the parole system, referring to the technical knowledge and operation necessary to manage parole. This criterion is necessary to understand the relationship between reintegration practices and the professionals administering the parole system.

The Tokyo Rules refer to the importance of including specialized officers in the parole process, mentioning the relevance of legal, social, and medical sciences for community treatment. Officers' qualifications reveal the capabilities of a penitentiary system to adapt to complex factors involved in community intervention. From a social reintegration perspective, socially oriented disciplines are best suited for community-based intervention because professionals in these areas will have a broad knowledge base to manage intervention programs and find diverse solutions. Moreover, specialized parole officers can conduct surveillance and other activities unrelated to control but equally necessary for parole administration.

The disciplinary intervention criterion also refers to the relationship between reintegration practices and accessibility to parole. Minimizing the obstacles to parole while ensuring that offenders pose minimal risk to the community are desirable goals in the operation of criminal justice systems from a reintegrative perspective. Decreasing obstacles in the parole process can favor community-based treatment, but there must be safeguards, comprehensive processes, and multi-level analyses that can ensure that the offender is ready for release. In this sense, the Tokyo Rules emphasize the importance of clear guidelines and procedural guarantees to avoid restrictive parole application.

Therefore, the comparative examination of the disciplinary intervention criteria follows an observation of four variables of the laws concerning the technical work of penitentiary officers and the procedural structure of parole applications. Table 14 shows the technical foundation of penitentiary treatment, as the technical knowledge that supports the parole system, Table 15 shows the intervening agents in the parole process, as the qualifications of the agents involved in parole, Table 16 shows the accessibility of parole, as

the difficulty prisoners face to receive parole, and Table 17 shows the administrative steps in parole examination, as the stages necessary to approve parole.

2.1 Technical Foundation of Penitentiary Treatment

Table 14. Disciplinary Intervention in Japan and Costa Rica: Technical Foundation.

Variable	Japan	Costa Rica
Technical foundation of penitentiary treatment	A. Imprisonment: Work and Orientation are the pillars of penitentiary treatment, including the following technical areas: a. Education b. Psychology c. Security d. Victimology e. Medicine B. Parole: Parole supervision relies on community supervision through specialized officers with treatment programs for particular offenders, including the following technical areas: a. Education b. Psychology c. Sociology d. Social Welfare	A. Imprisonment: Multidisciplinary intervention and voluntary participation are the foundation of penitentiary treatment, including the following technical areas: a. Education b. Psychology c. Security d. Orientation e. Social Work f. Law g. Medicine B. Parole: Two types of parole. Parole under judicial supervision relies on community supervision through specialized officers. Parole under administrative supervision relies on community supervision through specialized officers, family, and employment. Parole under administrative supervision includes the following technical areas: a. Education. b. Psychology c. Security d. Orientation e. Social Work (Main area in the Community program) f. Law g. Medicine

Note: Information extracted from Table 8 and Table 11. See Chapter 3.

2.2 Intervening Agents in the Parole Process

Table 15. Disciplinary Intervention in Japan and Costa Rica: Intervening Agents.

Variable	Japan	Costa Rica
Intervening agents in the parole process	A. For the investigation: a. Prison officers b. Prison wardens c. Regional Parole Councils d. Parole Officers e. Volunteer officers f. Others (Judges, prosecutors, and victims) B. For the approval: a. Regional Parole Councils C. For the supervision: a. Parole officers b. Volunteer officers	A. For the investigation: a. Parole under judicial supervision: i. Interdisciplinary councils (made up of prison administrators and the heads of disciplinary and security areas) ii. National Criminology Institute (Heads of SAB, the disciplinary offices, and other administrative areas) b. Parole under administrative supervision: i. Interdisciplinary councils ii. National Criminology Institute B. For the approval: a. Parole under judicial supervision: i. Judge of the Execution of the Sanction b. Parole under administrative supervision: i. National Criminology Institute C. For the supervision: a. Parole under judicial supervision: i. Technical officers b. Parole under administrative supervision: i. Technical and security officers

Note: Information extracted from Table 8 and Table 11. See Chapter 3.

2.3 Parole Accessibility

Table 16. Disciplinary Intervention in Japan and Costa Rica: Parole Accessibility.

Variable	Japan	Costa Rica
Accessibility of parole	A. Soliciting party: a. Prison Warden b. Regional Parole Councils B. Right to request: a. Regulated as a benefit of administrative discretion. C. Minimum time served before application: a. After one-third of the criminal sanction for sentences of up to twenty years. b. After ten years of life in prison sentences. D. Other requirements: a. Show of remorse (adjustment to institutional life, life plan after release, motivation to repair the harm, low probability of reoffending)	A. Soliciting party: a. For parole under judicial supervision: i. First-time offenders ii. Execution of the Sentence Judge iii. National Criminology Institute b. For parole under administrative supervision: i. Interdisciplinary council B. Right to request: a. For parole under judicial supervision: i. Established as a right. b. For parole under administrative supervision: i. Regulated as a benefit of administrative discretion. C. Minimum time served before application: a. For parole under judicial supervision: i. After half of the criminal sentence is complete. b. For parole under administrative supervision: i. After one-third of the criminal sanction for sentences under seven years. ii. Extraordinary measures D. Other requirements a. For parole under judicial supervision: i. Participation in occupational and treatment activities, appropriateness of social environment, and absence of disciplinary measures. b. For parole under administrative supervision: i. Participation in occupational and treatment activities, appropriateness of social environment, and absence of disciplinary measures.

Note: Information extracted from Table 8 and Table 11. See Chapter 3.

2.4 Administrative Steps in Parole Examination

Table 17. Disciplinary Intervention in Japan and Costa Rica: Administrative Steps.

Variable	Japan	Costa Rica
Administrative steps in parole examination	A. Step 1-A: The prison warden requests the start of the investigation. B. Step 1-B: Regional Parole Council requests documents from the prison warden to start the investigation. C. Step 2: The Regional Parole Council directs Parole Officers and Volunteers to study the prisoner's social environment (projected address after release and workplace). D. Step 3: (Optional) The Regional Parole Council can request or accept the written opinion of judicial authorities and the victim of the crime. E. Step 4: The Regional Parole Council interviews the prisoner and analyzes the information available. F. Step 5: Meeting as a group, the Regional Parole Council approves or rejects parole. G. Step 6: The Regional Parole Council determines the parole conditions.	A. For parole under judicial supervision: a. Step 1-A: Prisoners request the beginning of the assessment to the ESC. b. Step 1-B: After the rejection of the first examination, the NCI can request a re-assessment. c. Step 2: Interdisciplinary councils collect information and send it to the NCI. d. Step 3: The NCI makes a recommendation to the ESC judge. e. Step 4: The ESC judge conducts a hearing to assess the case, examine the information, and decide on the case. The decision is appealable. f. Step 5: The ESC judge establishes the parole conditions. B. For parole under administrative supervision: a. Step 1-A: Interdisciplinary Councils conduct periodical assessments to find adequate candidates. b. Step 1-B: The NCI orders Interdisciplinary Councils to conduct extraordinary assessments to find adequate candidates. c. Step 2: The Interdisciplinary Council verifies the projected living address and place of work and assesses the prisoner's life plan after release. The Interdisciplinary Council sends a recommendation for transfer to the NCI. d. Step 3: NCI studies documents and recommendations. e. Step 4: NCI approves or denies the transfer to a Semi-Institutional program. f. Step 5: The NCI establishes the conditions.

Note: Information extracted from Table 8 and Table 11. See Chapter 3.

2.5 Key Points

A. Common traits:

- The Japanese parole system shares common traits with the Costa Rican administrative parole system. An administrative office directs the investigation, assesses the information, and approves early-release. In the Costa Rican system, the office responsible for parole examinations is a superior central institution, but in the Japanese system, it is a regional office part of the central administration.
- In both systems, specialized officers with a background in disciplinary areas manage the parole system instead of security officials (i.e., police officers) and incorporate diverse technical knowledge in the parolees' treatment process.
- Both systems regulate parole as a benefit.
- In the Japanese and Costa Rican administrative systems, prison authorities start the parole investigation, although superior authorities can request it extraordinarily.

B. Unique to the Japanese system:

- Includes a core of volunteer officers to support parole officers during parole investigations.
- Parole officers work as generalists of a multidisciplinary background.
- The parole examination is more comprehensive than the Costa Rican administrative examination, involving the local parole offices, judicial authorities, and the victim in the investigation procedure.
- Jurisdiction over parole offices remains in the Executive branch.
- Regional Parole Councils' main functions revolve around the parole system.
- It implements welfare-focused practices by collaborating with various institutions and communities through networks.
- The Japanese system recognizes parole requests at an earlier stage and does not include restrictions for recidivists or serious crimes. It also includes a special procedure for indeterminate sentences.
- The Japanese system emphasizes the show of remorse as a condition for parole.

C. Unique to the Costa Rican system:

- The system has both judicial and administrative early-release mechanisms in place. In the Costa Rican judicial system, first-time offenders can request a parole assessment.
- Technical officials from diverse disciplinary backgrounds manage prisons and community surveillance offices, emphasizing the technical approach and interdisciplinary work.
- Consistency between the treatment areas in prison and parole.
- The judicial and administrative systems exclude recidivists and grievous offenders from the early-release measures.
- The NCI conducts other functions aside from parole assessments and approvals.
- The judicial system's examination is more comprehensive than the administrative, organizing a hearing where judicial authorities and the victim can raise objections against the early-release measure.
- Decisions in the judicial system are subject to appeal.

3. Control and Supervision Mechanisms

This section deals with the techniques and methods to regulate offenders' lives in the community and prevent recidivism. This criterion contributes to the examination of the conditions for parole, the assessment of offenders' progress during parole, and the variability of parole conditions relative to parolees' response to community treatment.

Control and supervision mechanisms may refer to simple technologies of surveillance to control offenders' behavior and prevent reoffending. Commonly, control and supervision mechanisms in community treatment involve prohibitions and obligations for parolees, such as keeping a job, wearing tracking devices, meeting with parole officers, or avoiding going to places that may negatively affect the offender's progress. Violating these control mechanisms can result in disciplinary measures and even reincarceration.

However, control and supervision mechanisms also include measures, agents, and institutions that actively conduct surveillance while they support offenders. Such mechanisms involve welfare-oriented policies, employment networks, community guidance, and treatment programs. The Tokyo Rules state that parole conditions should consider the needs of

offenders and not limit themselves to control, complementing surveillance with institutional support.

The Tokyo Rules also suggest that control and supervision mechanisms should not be excessive nor impede life in the reinsertion process. When establishing parole conditions, it is crucial to consider the challenges involved in reintegrating into the community. Excluding some cases of recidivism, parole officers must possess sufficient discretion to deal with breaches of conditions without resorting to re-incarceration.

To assess the criterion of Control and Supervision Mechanisms, Table 18 shows the parole conditions, as the rules parolees must follow during community surveillance, and Table 19 shows the progress evaluation, as the procedures to vary or cancel parole.

3.1 Parole Conditions

Table 18. Control and Supervision Mechanisms in Japan and Costa Rica: Parole Conditions

Variable	Japan	Costa Rica
Parole conditions	A. Conditions: a. General conditions applicable to all parolees. i. Prohibitions from going to certain places. ii. Living in an approved location. iii. Obeying instructions from officers and volunteers. iv. Communicating with officers and volunteers. v. Attending meetings. vi. Respecting social norms. b. Special conditions applicable to particular parolees. i. Avoiding certain places or individuals. ii. Attending special treatment programs. iii. Temporary institutionalization (health clinics or support institutions). B. Methodology: Officers and volunteers conduct control and surveillance. The two main tools of community treatment for parolees are orientation and support measures. a. Orientation measures: The regular interaction between officers and volunteers with the parolee. Include of meetings, visits, and other forms of contact. Besides ensuring the control of parolees, these include instructions to contribute to the reinsertion process. b. Support measures: These are welfare-oriented measures to give parolees access to services to improve their lives.	A. Conditions for parole under judicial supervision: a. ESC judges establish the conditions following the NCI's technical recommendations. b. Additionally, judges may order the use of electronic surveillance. B. Conditions for parole under administrative supervision: a. The Interdisciplinary Council recommends the conditions, and the NCI approves them. b. Mandatory conditions are keeping an occupation and living in an authorized address. C. Methodology: a. Parole under judicial supervision: i. Officers from the Community program conduct supervision through monthly meetings and communications with community resources (family, employers, and community organizations). b. Parole under administrative supervision: i. Officers from the Semi-Institutional program conduct supervision through periodic meetings, field visits, and communication with family members and employers.

Note: Information extracted from Table 8 and Table 11. See Chapter 3.

3.2 Progress Evaluation

Table 19. Control and Supervision Mechanisms in Japan and Costa Rica: Evaluations.

Variable	Japan	Costa Rica
Progress Evaluation	A. Source of information: a. Monthly volunteer reports: Based on parolees' conditions, family relationships, and employment. b. Officer's reports: Based on the reports from volunteers and parolees' progress in special treatment programs. c. Police reports B. Changes in surveillance and treatment: a. Variation of conditions: The parole office director can change conditions, such as the periodicity of meetings, changing volunteer officers, or adding measures to treat criminogenic conditions. b. Supporting actions: In cases such as the loss of employment or housing, office directors can recommend parolees to temporary support institutions until parolees can recover. In urgent circumstances, parole offices can supply parolees with material resources. c. Cancellation of parole: i. If parolees do not follow the conditions, the office director sends the report to the Regional Parole Council, and they decide if the case merits cancelation. ii. In case of reoffending, the office communicates with the Regional Parole Council, and they process the suspension of parole until the conclusion of the criminal procedure. iii. In the case of parolees who received indeterminate sentences, the parole office can recommend the elimination of parole to the Regional Parole Council. The council decides the merits of the recommendation.	A. Source of information: a. Officer's reports: Based on periodic meetings and communications with family, community, and employment resources. b. Police reports B. Changes in surveillance and treatment a. Variation of conditions for parole under judicial supervision: Parole officers can recommend changes to the ESC judge, who approves the changes. b. Variation of conditions for parole under administrative supervision: Officers can change the conditions. c. Cancellation of parole i. Cancellation in judicial supervision: The office chief reports violations of the conditions to the ESC judge. ii. In cases of detention for suspicion of reoffending, the judge orders the suspension of parole until the conclusion of the criminal procedure. iii. Cancellation in administrative supervision: The local office assesses the violation of the conditions. In severe cases, the office recommends to the NCI the cancellation of the measure, and they make the final decision. iv. In cases of detention for suspicion of reoffending, the local office communicates with the NCI, which suspends the measure until the conclusion of the criminal procedure. v. Transfer from administrative supervision to judicial supervision: Semi-Institutional offices can recommend to the NCI that offenders under their supervision transfer to the Community program. The NCI assesses the case and sends a recommendation to the ESC judge, who decides if the change of supervision would help the offender.

Note: Information extracted from Table 8 and Table 11. See Chapter 3.

3.3 Key Points

A. Common traits:

- Parole conditions may include therapeutic programs and other forms of technical intervention to support offenders with special conditions.
- In the Japanese system and Costa Rica's administrative system, the offices in charge of approving early-release also decide the parole conditions.
- Both systems actively observe the parolee's social environment to assess their progress. Communication with parolees' families, employers, and community resources supports the surveillance role of parole officers.
- Officers in the Japanese system and Costa Rica's administrative system enjoy similar levels of discretion to vary parole conditions concerning the meetings' periodicity and participation in special programs.
- Both systems apply similar procedures for the cancellation of parole, recurring to a superior agency that will deliberate on the merits of each case.

B. Unique to the Japanese system:

- The law clearly defines two sets of conditions applicable to parolees.
- Parole conditions include support measures to ensure parolees can continue under community surveillance. The system grants legal recognition to privately financed institutions to collaborate with the parole offices.
- Volunteers write monthly reports to the parole officer in charge.
- Clear definition of the control and support roles of parole officers and volunteers, referring to specific actions and measures available in various cases to support parolees in need. Mentions parole officers' role as links between parolees and welfare institutions.
- There is a special cancellation procedure for parolees with indeterminate sentences.

C. Unique to the Costa Rican system:

- Lack of clearly defined conditions in the judicial system. In the administrative system, the only conditions mentioned are keeping employment and living in an approved address.
- Officers in the administrative system have a high degree of discretion to vary the parole conditions without the intervention of a superior administrative office.

4. Community Intervention

The community intervention criterion considers the availability of community resources to support parole. This criterion includes the legally recognized interinstitutional support, volunteer participation, and communication variables.

Community intervention is relevant to treatment in society because it sets the groundwork for reintegration through support networks in collaboration with the criminal justice system. The interaction with community organizations connects parolees to necessary resources to prevent social isolation and other factors that affect adherence to parole conditions.

The Tokyo Rules recognize community resources as fundamental aspects of community supervision. These resources supply support alternatives not available to penitentiary institutions, significantly improving the success of community-based programs. Institutions specialized in medicine, employment, housing, and addiction treatment can collaborate to improve parolees' quality of life.

The Tokyo Rules also recommend the participation of volunteers in the surveillance and support role of parole. Volunteer intervention can improve community reintegration, connecting parolees with other members of the community who have a stake in the successful completion of the measure.

Lastly, communication between criminal justice institutions and the public is vital to community-based measures. Communication can contribute to informing the communities about the importance of parole as a treatment measure and prevent backlash against parolees.

To evaluate the Community Intervention criterion, Table 20 shows interinstitutional support as the collaboration with institutions outside the criminal justice system, Table 21 shows volunteer participation as the involvement of volunteers in surveillance and support, and Table 22 shows communication as the information channels between the parole system and the public to promote the goals of community-based treatment.

4.1 Interinstitutional Support

Table 20. Community Intervention in Japan and Costa Rica: Interinstitutional Support.

Variable	Japan	Costa Rica
Interinstitutional support	A. Legally recognized institutional support: a. Cooperation with Rehabilitation Facilities (KHS): The KHS are institutions that can provide temporary housing services and support to offenders without housing or employment resources. Although a special law regulates these institutions and they receive government funding, the KHS are privately managed organizations. b. Cooperation with the Ministry of Labor and Social Security: An agreement between the Ministry of Justice and the Ministry of Labor and Social Security resulted in job hunting programs for parolees. c. Cooperation with welfare institutions and civil organizations: Legally recognized support institutions that supply medical and treatment services. B. Application to support programs: a. Parole officers, office directors, and the Regional Parole Councils can recommend parolees to support institutions through legally defined procedures.	A. Legally recognized institutional support: a. Agreements between the Ministry of Justice and other institutions: No institutions named in the penitentiary laws, although the parole offices can establish links with community organizations. The Ministry of Justice can sign cooperation agreements with other institutions to provide specific services, but these are temporary. Collaborators include state agencies, social welfare institutions, medical organizations, NPOs, and academic organizations. B. Application to support programs: a. Parole officers can intercede in favor of parolees with other institutions, but the services do not consider parolees' conditions. There are no legally defined procedures to make recommendations.

Note: Information extracted from Table 8 and Table 11. See Chapter 3.

4.2 Volunteer Participation

Table 21. Community Intervention in Japan and Costa Rica: Volunteer Participation.

Variable	Japan	Costa Rica
Volunteer participation	A. Recognized organizations: a. Volunteer officers: Volunteer officers in charge of supervision and community-building activities. There are local and national committees to manage their operation. b. Cooperation with employer networks: Authorized employers can receive tax benefits for employing parolees.	A. Recognized organizations: a. The penitentiary regulations state that volunteer organizations are an important aspect of community treatment, but it does not provide a clear guideline of what those organizations are or what services they can provide. b. The SAB authorizes volunteer work on a case-by-case basis.

Note: Information extracted from Table 8 and Table 11. See Chapter 3.

4.3 Communication

Table 22. Community Intervention in Japan and Costa Rica: Communication.

Variable	Japan	Costa Rica
Communication	A. Regulation on communication: a. Responsibility of local offices to actively engage with the community. Special department for communication in each office. b. Volunteer officers participate in communication activities within the community. B. Support role: a. Legally relevant annual activities designed to raise awareness of the criminal justice system and the goals of community-based treatment. b. Publicity slogans and campaigns to motivate and inform parolees and the public.	A. Regulation on communication: a. Communication is a vital aspect of community supervision, but the law does not define the role or the method. b. Events for crime prevention on a local scale but not related to enhancing the understanding of the criminal justice system. B. Support role: a. Ad hoc activities from each office to engage with community assets.

Note: Information extracted from Table 8 and Table 11. See Chapter 3.

4.4 Key Points

A. Common traits:

- Both systems work through collaborative agreements with external institutions to provide support services to parolees.
- Interinstitutional cooperation, volunteer work, and communication with the public receive legal recognition.

B. Unique to the Japanese system:

- The law clearly defines the type of institutions that can collaborate with the parole system and their functions. Private institutions such as the KHS receive special recognition within the criminal justice system.
- There are special procedures for support organizations and networks.
- A legally recognized volunteer regime that actively engages with offenders and communities.
- There are special departments for communication in each local office.
- There are organized information campaigns.

C. Unique to the Costa Rican system:

- Active collaboration with family and employer resources.
- The law incentivizes ad-hoc operations according to the capability of each office.

5. Analysis

An analysis from the parsimony perspective scrutinizes two sides of the criminal justice system. On one side, an examination from this perspective investigates the procedural designs that restrict the applicability of benefits, revealing the obstacles and gateways offenders must overcome to gain access to programs and services. The parsimony perspective, on the contrary, emphasizes the importance of the "design economy," which denotes the ability of agencies and processes to efficiently perform multiple functions while minimizing redundant operations.

In the criminal justice system, the parsimony principle guides the streamlining of processes towards achieving its goals. Parsimony supports the use of restrictive designs so long as these do not become an obstacle to socially positive goals or unnecessarily maximize harm as a form of retribution (Morris, 1974; as cited in Atkinson and Travis, 2021, p. 10). From this perspective, parsimonious criminal justice systems aim to develop more just criminal justice institutions by affirming fair treatment (Tonry, 2017, Atkinson and Travis, 2021, p. 10). To promote fairness, criminal justice institutions must apply rules and practices that use resources, technologies, and materials in a simply and rationally (Constitutional Ruling, 2006).

Therefore, the parsimony analysis examines measures that promote social reintegration. These measures minimize excessive punitiveness and promote designs that actively use welfare-oriented practices and community assets to improve social relationships in parole.

5.1 Normative Development

This section examines the extent to which each parole system regulates community-based treatment. From the parsimony perspective, penitentiary legislation must reduce repressive practices as much as possible and actively encourage offenders' support. Based on UNODC (2013) standards, penitentiary laws in Japan and Costa Rica, as a unit, implement key aspects the parsimony perspective considers necessary to achieve social, such as:

- Reflection of community priorities,
- Interaction with specific criminogenic challenges,
- Using technical tools to assess the offenders' needs and risks,
- Creating a sense of responsibility and independence in offenders,
- Engaging offenders before release and throughout community surveillance,
- Balancing the control and support role of parole officers,
- Offering comprehensive and coordinated intervention programs in collaboration with external institutions,
- Using communication strategies to inform the public,
- And including self-assessment spaces to improve their operation.

The Japanese and Costa Rican systems similarly emphasize the relevance of community-based surveillance programs and promote reintegration through support measures. Examining each program's specific goals reveals that the parole systems aim to engage with the offenders' respective communities and decrease parolees' risk of alienation. Despite the similarities, the parsimony perspective considers clear and comprehensive criminal legislation favorably over general goals or intentions within the law. From this point of view, the Costa Rican system lacks the legal structure that ensures constant results.

Absent a national legal order, the Costa Rican penitentiary administration has recurred to international legislation and technical rules to sustain the penitentiary system. This practice has brought positive results, such as international human rights laws' integration in penitentiary programs, the strengthening of a technically oriented management system, and a flexible operation by professionals with inclinations toward offender rehabilitation. However, there is no comprehensive regulatory framework to meet the needs of each program within the Costa Rican normative order (Esquivel, 2023).

Contrarily, the Japanese legislation is an example of a system that comprehensively regulates multiple aspects of the penitentiary administration. Laws specifically define programs, qualify participants, determine roles, and attach responsibilities to institutions that take part in penitentiary practice and intervention. Criminal laws require clear definitions and limits to government intervention, regardless of their intention. The Japanese laws offer an example of clear, concise, and comprehensive legislation that guarantees equal treatment to all offenders.

5.2 Disciplinary Intervention

This section focuses on the technical processes that lead to parole approval. Excessive obstacles in this area can create a sense of unfairness and demoralization, likely to result in poor penitentiary environments (Padfield, 2007) Clear rules are therefore necessary for offenders to take active steps toward their self-improvement. To this end, positive reinforcements prove more useful in promoting prisoner engagement (Vega, 2022).

From the parsimony perspective, criminal justice practitioners' qualifications must vary according to their position and function. Although security and control are necessary

aspects of criminal justice work, other areas can benefit from officers with specialized technical backgrounds. In treatment-oriented programs, officers with higher educational qualifications and professional values that promote "firm but fair" approaches can significantly improve the chances of offender engagement (Astbury, 2008; as cited in Hamin and Abu Hassan, 2012, p. 331).

5.2.1 On the Technical Aspects

The Japanese and Costa Rican parole systems introduced technical qualifications for parole officers. In both countries' systems, social and normative sciences form the foundation of parole officers' expertise. However, the application of disciplinary knowledge varies significantly. In the Japanese system, officers work as generalists capable of conducting different operations within the parole system. Officers take training after they begin working, which takes place nationally and lasts up to four months (Two two-month training sessions) (Taguchi, 2022). After training, parole officers can conduct surveillance and even organize special treatment programs (Otsuka et al., 2022). Through this technical model, parole officers take in a variety of disciplines that allow them to work flexibly and independently (Otsuka et al., 2022).

In the Costa Rican system, penitentiary regulations favor interdisciplinary work. Each officer belongs to a technical area according to their higher education and will work with tools specific to each discipline. However, the technical areas are not specific to the Semi-Institutional or Community programs. Rather, the penitentiary regulations set up a unified operation standard for technical officers, meaning these professionals can work in any program. Despite the standardization, there are no general training sessions for new officers. Experienced officers train newcomers in each program (Badilla, 2022).

From a parsimony perspective, the Japanese system enjoys a simpler professional regime. Although the Costa Rican system promotes a higher degree of specialization in specific areas, it has been challenging to realize. For instance, the Community program has not been able to work with a complete interdisciplinary body of professionals. Instead, the program relies on specialists who must learn to work as generalists (Esquivel, 2023).

Currently, most parole officers are social workers because of their skillset, which allows them to adapt to the judicial supervision system's work model (Esquivel, 2023).

The Semi-Institutional program has faced similar challenges. Although the work model of the administrative supervision system benefits from interdisciplinary intervention (Vega and Madrigal, 2022), each officer supervises parolees individually (Esquivel, 2023). Significantly, both programs suffer from a lack of personnel and funding regularly, and few offices in the Semi-Institutional program work with a complete interdisciplinary staff (Vega and Madrigal, 2022).

Despite the advantages of employing an interdisciplinary workforce, it is challenging to implement in the parole system. Unlike prison, community-based programs may benefit from a generalist approach that allows officers to conduct similar functions regularly. This approach would also contribute to the specialization of community-based treatments as a separate practice from institutional work.

5.2.2 On the Parole Approval Process

Regarding the applicability of parole, the Japanese legislation is less restrictive than that of Costa Rica. However, despite the high number of prisoners who receive parole each year, the authorities often recognize parole late in the criminal sentence for first-time offenders and recidivists alike. Although the Japanese system states that parole is applicable after a third of the sentence, most prisoners receive parole approval after more than two-thirds of the sentence has expired. Prison wardens decide when to request the parole investigation but seldom recommend it at the established time (Ueno, 2023). Prison authorities are reluctant to initiate parole assessment early and have no external pressure to do so. Even though Regional Parole Councils can request prison authorities to start the examination, this rarely happens. The councils rely on the first-hand knowledge prison authorities have of the day-to-day operation of penitentiary facilities, and there is an elevated level of trust, reflected by the fact that the council approves almost all parole requests (Taguchi, 2022).

In the Costa Rican system, the judicial system only recognizes parole for first-time offenders after half of the sentence, but the administrative system does not authorize early-

release to prisoners guilty of serious offenses. Negative parole reviews in the judicial system are numerous because the NCI is less likely to recommend candidates who can apply regardless of their engagement with treatment or occupational programs (Esquivel, 2023).

In the case of the Costa Rican administrative system, the probability of receiving the early-release benefit is higher. Candidates for transfer to the Semi-Institutional are prisoners who actively participate in treatment and occupational activities, have community resources, and do not require physical restraint. Thanks to the discretionary faculties of prison authorities and the NCI, most offenders who gain access to the Semi-Institutional program do so after completing a third of the sentence (Badilla, 2022).

Regarding the assessment stages, both systems rely on technical information to approve parole, including environmental studies on the projected living address and employment. Japanese parole system actively includes parole officials during the parole investigation (Taguchi, 2022), but in Costa Rica, parole officers only meet offenders after release (Esquivel, 2023). However, the Costa Rican system promotes the participation of family members even before parole examinations. Technical officials encourage families to visit prisons, and intervention sessions during prison can include family members (Badilla, 2022).

Japanese laws are comparatively less restraining than Costa Rica's, but in practice, prison authorities use parole restrictively. On the other hand, the Costa Rican judicial system creates more obstacles for prisoners, but discretionary power rests in an outside agency responsible for safeguarding prisoner rights. The judicial system conducts the parole assessment through hearings, where prisoners will actively take part in the process.

From a parsimony perspective, the possibility of release at an earlier stage is preferable, but only if the system has the conditions to make parole a concrete outcome. Japan and Costa Rica are systems where discretion can work for or against offenders' interests, restricting or promoting access to early-release. Figures such as the ESC judge in the Costa Rican judicial system, although not “economic” (creates an extra stage in the examination) can limit the discretionary power of prison authorities and improve the chances of prisoners to receive parole. Moreover, deliberation hearings where prisoners can state

their case and know the information the authorities used during the assessment promote fairness in the parole process.

5.3 Controls and Supervision Measures

This section examines control mechanisms in parole conditions and their assessment. Strict observance of parole conditions has not been effective in decreasing recidivism (Padfield and Maruna, 2006). Limiting parole conditions to prohibitions is equally detrimental to the prevention of reoffending (Padfield, 2007). Parole systems must create environments that decrease the chances of reoffending through support networks within the community (Bahr et al., 2010; as cited in Hamin and Abu Hassan, 2012, p. 330). Such systems also improve the parole officers' work quality and create community resources that support surveillance and promote reintegration. Strict parole conditions, on the other hand, cause officers to engage in control tactics that impede the applicability of support measures (Dandurand et al., 2009; as cited in Hamin and Abu Hassan, 2012, p. 329).

In the Japanese and Costa Rican systems, parole conditions follow technical recommendations and consider community relationships. Housing, employment, and community resources receive significant attention in both systems, but the Japanese system introduces welfare-oriented measures to enhance compliance with parole conditions, measures unavailable in Costa Rica. These measures support parolees in cases of dire need and prevent detrimental conditions in quality of life. Further, Japanese laws clearly define parole officers' role as links between parolees and welfare institutions. Officers can refer parolees to programs such as “Hello Work” to find employment and Narcotics Anonymous to treat drug addiction (Taguchi, 2022).

In the Costa Rican system, parole conditions rely on the recommendations from the NCI, which consider the institutional plans prisoners receive during imprisonment (Esquivel, 2023). In community-based programs, these conditions usually involve participation in volunteer associations, public work, and participation in special courses on drug addiction, domestic violence, and skill development (Vega and Madrigal, 2022).

The violation of conditions in both systems does not automatically lead to re-incarceration. Parole officers have sufficient discretion to assess on a case-by-case basis if

violations merit disciplinary measures. Frequently, officers from both countries prefer to take alternative routes to ensure the continuation of parole, increasing the frequency of meetings, recommending treatment programs, or subscribing parolees to volunteer work programs (Taguchi, 2022; Vega and Madrigal, 2022).

From the parsimony perspective, both systems employ reintegrative parole conditions and discretion in disciplinary matters. Parole conditions promote community interaction, and parole officers have sufficient discretion to avoid re-institutionalization. The Japanese legislation has clearly defined parole officers' support role and provided alternative aid measures to improve parolees' chances of concluding parole. In Costa Rica, parole officers can also recommend parolees to support institutions in case of need, but this is an ad-hoc practice (Esquivel, 2022). Again, here, the Japanese system serves as an example of clear legal definitions that work in favor of offenders.

Regarding the parole assessment, volunteer officers in the Japanese system supply parole officers with the bulk of information concerning parolees' progress (Ueno, 2023). Comparatively, Costa Rican officials meet parolees more often and use community resources as support to verify information, whether through field visits or long-distance communication (Vega and Madrigal, 2022). From the Japanese side, volunteers' involvement is relevant because, through them, parolees can interact with community members; it is a softer approach to offender control that can also promote reintegration. Yet, overreliance on volunteers can also lead to a disconnect between parole officers and parolees, while it funnels access to information through intermediaries. From the Costa Rican side, direct involvement and field visits can guarantee better access to information and assessment of each case. However, this is also “expensive” in terms of workload and can inconvenience parolees who must travel longer distances to reach the parole office (Badilla, 2022).

Regarding restrictiveness and economy, the Japanese system is helpful to offenders because it limits long commutes for offenders and has a softer approach to surveillance. Moreover, the average duration of parole in Japan is short, which can impair direct engagements between parole officers and parolees; thus, volunteer mediation can also help officers conduct separate functions and focus on high-risk offenders. However, the time spent under community surveillance and its relationship with the level of volunteer support merits

closer examination. Parole officers in Costa Rica indicate that the first interactions between parolees and officers are vital to creating trust. Only after building rapport can officers rely on community assets to actively intermediate in communications (Vega, 2022). Yet, this practice depends on the discretion of each officer and penitentiary regulations do not define the process.

5.4 Community Intervention

This last section examines the relationship between parole offices and external organizations. Overreliance on professional work in criminal justice can “de-communitize” the treatment, leaving community-based treatment exclusively in the hands of experts risks and decreasing the involvement of critical resources (Braithwaite, Crime, Shame and Reintegration, 2006). When criminal justice dedicates itself to addressing social issues solely through repressive and exclusionary methods, it does little to improve the conditions of victims, communities, and offenders. To promote reintegration, the parole system must avoid isolation and involve external assets. Incentivizing community participation can contribute to parole by supplying human and social resources and support networks, all proven vital factors in crime prevention (UNODC, 2013). Further, interconnectivity with welfare institutions can reduce costs and services’ centralization in parole offices, distributing the weight of offender intervention among different sectors. Lastly, communication between parole offices and the public can inform the public of the purposes of criminal justice, enabling two-way dialogue to generate genuine engagement and prevent one-way dissemination of narratives.

The Japanese system has heavily emphasized the engagement between community-based treatment programs and external organizations. Solid legal instruments establish this relationship, recognizing the limitations of parole offices to supply the necessary support to parolees. Parole offices have close ties with NGOs, such as the KHS and Narcotics Anonymous, and employer networks to support offenders (Otsuka et al., 2022). Communication with the public receives close attention as well in the form of annual publications, informative campaigns, annual events, and collaboration with academic forums and institutions (Otsuka et al., 2022). Further, academic studies, textbooks, university courses, discussion congresses, and other forms of knowledge distribution concerning the

parole system evidence the authorities' openness to share information and the role academics and professionals have in forming the narrative surrounding parole.

The Costa Rican system shows signs of recognizing the relevance of community participation in its legislation but laws nor regulations clarify the relationship between parole offices and external agencies, the role of community resources, the characteristics of volunteers or their function, the capability of each parole office to engage with community organizations and other institutions, or the communication channels available to parole officers to engage with the public. Further, unlike the Japanese case, public and academic information is lacking, and in recent years, there have been few spaces for discussion that included the participation of public officers (Esquivel, 2022).

On an ad hoc basis, Costa Rican parole offices set up communication links with external organizations to supply services to offenders. As a result, the reliability and continuity of these links vary from office to office (Vega and Madrigal, 2022). In recent years, the Ministry of Justice has encouraged interinstitutional cooperation with local governments to create violence prevention networks, where local parole offices can participate and collaborate with other organizations to support parolees. Moreover, the ministry has signed agreements with public and private institutions to finance projects and create occupational opportunities. Yet, this form of collaboration is temporary and depends on the initiative of the ministry's political lead; thus, it is not a reliable source of cooperation (Badilla, 2022).

From the parsimony perspective, the Japanese system has clear advantages in its communication capabilities and interinstitutional support. The authorities incentivize access to information with reintegrative purposes, and the institutions that actively work with parole offices are support and welfare oriented. In the Costa Rican system officers proactively seek out local organizations for collaboration (Badilla, 2022), but these practices are unreliable. Moreover, information spaces are almost non-existent in a written format. Parole officers organize local events to inform the community of their work, but these are not part of the ministry's continuous, organized, and directed effort.

Further, the volunteer system in Japan has no equivalent in Costa Rica. Costa Rican regulations mention the importance of community resources and volunteers, but the

Japanese laws properly define their structure and operation. More importantly, volunteers are part of the reintegrative project the Japanese community-based system promotes. Volunteers can reduce the rigid structure of parole supervision, creating space for conversation between parolees and community members. For some volunteers, aiding offenders improves their communities and contributes to the nation's well-being (Taguchi, 2022). The Japanese volunteer model also aids parole officers, allowing the latter to focus on complex cases (Otsuka et al., 2022).

However, the applicability of the Japanese volunteer model in other countries requires further examination. Even in Japan, volunteers have expressed a preoccupation with the future of the volunteer program. Volunteers often tend to look for potential candidates in their social circle, particularly those who have experience in the fields of education or support and are nearing their retirement age (Kuroda et al., 2022). However, this approach restricts the system's ability to attract candidates in a dynamic and evolving society. Additionally, changes in criminality, lack of depth in training, generational gaps, and rising economic difficulties have become obstacles in the interaction between volunteers and parolees (Kuroda et al., 2022). Furthermore, UNAFEI's experience in the East Asia region reveals concrete challenges in motivating stable volunteer participation in sufficient numbers (Otsuka et al., 2022).

Chapter 5

Foreword

The present chapter offers the reform recommendations for a peacemaking parole model. By taking in vital aspects of parole's support role, recent findings on community-based treatment, the parsimonious characteristics of Japanese and Costa Rican law, and using the Tokyo Rules as a baseline, the present investigation creates a foundational framework for countries that aim to apply a parole system both respectful of human rights and capable of setting the stage for peaceful resolution in criminal justice.

1. A Peacemaking Parole Model: Guiding Principles and Standards

Chapter 2 addressed the peacemaking approach as the guiding principle for a parole model. Peacemaking promotes a system that recognizes the active involvement of offenders and social institutions outside criminal justice in creating fairer practices (Gesualdi, 2014; United Nations, 1993). Through this principle, the present study aims to incorporate processes to focus on conflict resolution, reintegration, and democratization of criminal justice operations to orient parole toward the community.

A peacemaking parole model takes into consideration the observations researchers such as Yoshinaka (2008) have made on the complex relationship between concepts such as crime prevention, community-based treatment, and community-based supervision. Without clear legal definitions and solid foundations, crime prevention strategies devolve into stigmatizing monitoring and offender management without any form of support. Although this approach can contribute to the control of offenders, it turns crime prevention into a policing action limited to surveillance. Thus, crime prevention becomes a one-dimensional action that contributes little to the reintegration of offenders as members of society.

Crime prevention in a peacemaking model does not exclude community-based surveillance. Rather, crime prevention in this model involves an integrated, multi-dimensional approach that can use a wide array of tools to guarantee the maximum benefit attainable while providing guarantees for society's well-being.

The peacemaking parole model the present study promotes also opposes the simplified view of offenders as enemies of society or the state. However, this investigation does not claim that the peacemaking perspective is generalizable to all offenders. Offenders convicted of serious crimes and re-offenders require a specialized and individualized approach to prevent recidivism and feelings of social insecurity. Yet, the peacemaking approach contends that labelling all offenders as dangerous enemies of society does not serve society's best interest. Criminal justice institutions must assess each individual case according to its characteristics and needs, not based on a priori notions of criminals or criminality. From this perspective, offenders are not enemies to defeat, but individuals who, despite their harmful actions, may reintegrate into society as valuable assets. Not all offenders may reintegrate successfully, but closing the possibility of attainable redemption to all offenders turns penitentiary action into an instrument of perpetual exclusion.

Thus, peacemaking aims to reduce unfairness, recognizing that governments can foment inequality in the name of justice (Miller, 1996; as cited in Sullivan and Tifft, 1998, p. 6). To achieve peace, criminal justice institutions must ensure fairness and limit repression lest it becomes state-sponsored violence (Prejean, 1993; as cited in Sullivan and Tifft, 1998, p. 3). In community-based treatment, it is necessary to include provisions that protect offenders from unfair practices that place them at risk of reoffending. To this end, regulations such as the Tokyo Rules can delineate the limits between models of justice that promote fairness and those that justify violence.

The Tokyo Rules serve as an essential foundation because it creates safeguarding standards to implement community-based treatment. Yet, despite the valuable contributions of these rules, they only stand for minimum standards applicable in a broad range of legal systems (United Nations, 1993). The rules do not establish a detailed model, but rather, they set up guidelines inspired by consensus, principles, and good practices. The purpose of the Tokyo Rules is to harmonize non-custodial measures worldwide with human rights-oriented standards, but they do not take active action to promote further development. As a result, this chapter develops a parole model that preserves the advances of the Tokyo Rules while it promotes concrete measures to enhance offender reintegration and peacemaking.

Criminal justice institutions such as parole must create the conditions for “equal well-being”, where every participant receives just treatment according to their needs (Miller, 1976; as cited in Sullivan and Tifft, 1998, p. 7). To ensure these conditions become a reality, the present model recurs to reintegration as a social and psychological process to strengthen community involvement in criminal justice. Reintegration thus becomes a path through which parole can gain peacemaking properties. Reintegrative policies and methods aim to reduce reoffending by increasing the participation of community organizations, NPOs, welfare institutions, families, and victims in community-based treatment. Programs that promote reintegration create better opportunities for offenders and improve communication between criminal justice institutions and the public, thus strengthening the link between citizenry and government policy (UNODC, 2013).

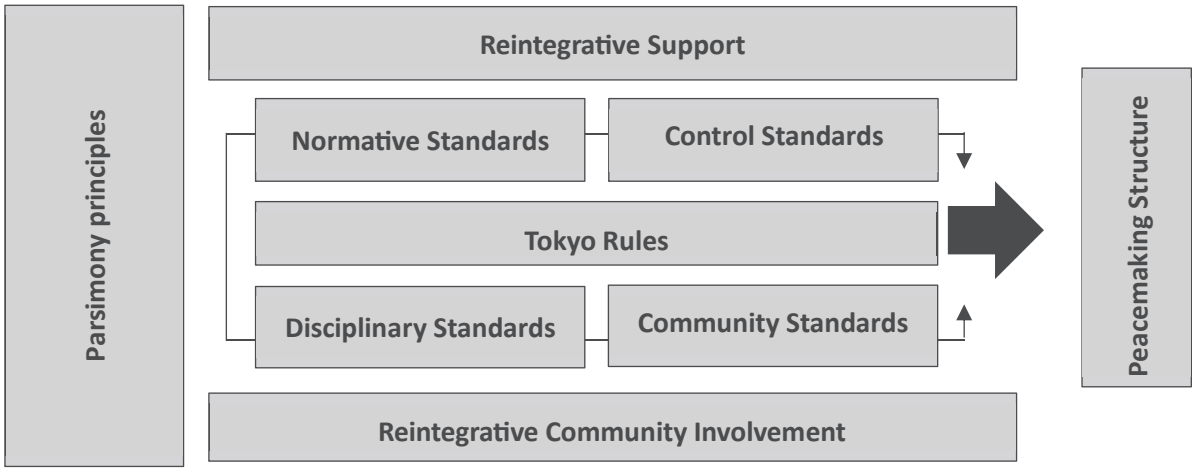

Figure 1. Structure of the Peacemaking Model. The parsimony and reintegrative principles set the limits to the model, while the standards structured around the Tokyo Rules form the contents of the model.

Therefore, the present parole model sets the foundation for community-based treatment that can guarantee support, prevent excessive repression, create spaces for community participation, incentivize reconciliation, and contribute to solving social problems, not add to them. The model's basic structure consists of four areas, each divided into key points that address the reintegrative and peacemaking aspects of the Tokyo Rules and the Japanese and Costa Rican parole systems.

2. Normative Standards

The issue of normative standards presents a plethora of difficulties that a parole model cannot expect to resolve. The legislative process involves diverse actors with specific

interests, philosophies, and goals; thus, consensus is a prerequisite to creating a body of laws that supports peacemaking models. Costa Rica is a nation where, despite the efforts to keep a penitentiary system aligned with human rights regulations, it has been impossible to define a penitentiary project through high-level legislation. Contrarily, Japan has shown that comprehensively legislating community-based programs is possible when the law development process includes private and civilian sectors in the discussion. For a peacemaking-oriented parole model, it is necessary to address legislative issues from its developmental stage. The development process must reflect the model's intention and include the participation of multiple sectors without diluting the purposeful content of the legislation it seeks to promote.

Table 23. Normative Standards: Setting the foundation of a parole model.

Principle	Description
Legal foundation	- Promoters of the peacemaking model should possess integral knowledge of community-based treatment's functions and results, nationally and abroad. This knowledge and its relationship to crime prevention is vital to convincing the public of the merits of parole's support role. - To develop a law project, promoters must organize public participation in national congresses, academic forums, and public and localized discussions. The inclusion of the public serves to address cultural characteristics and economic limitations of support measures. - The proposed law must, at least, use the Tokyo Rules as a guideline and, as a goal, include support measures for offenders under community surveillance, apply restorative justice protocols, use community resources, improve the relationship between institutional and community treatment programs, encourage interinstitutional collaboration with welfare institutions, and incentivize volunteer participation.

Note: Table created from Chapter 4's observations and the Tokyo Rules.

A peacemaking parole model must concern itself with public interactions before envisioning a concrete legal project. Supporters of the model must possess empirical and theoretical knowledge that validates community-based treatment and peacemaking processes. This knowledge discusses offender support, community involvement, and restorative protocols. Supporters of the peacemaking model should clarify that support measures are meant to improve general social conditions by reducing reoffending as a product of social alienation without endangering public safety (UNAFEI, 2021).

Public discussions on the projected parole law are necessary to adhere to the peacemaking principles. Criminal justice institutions, public and private organizations, and civilian groups must receive an open invitation to participate throughout the law development process. Encouraging participation is a matter of good governance practices on issues that generate uncertainty or insecurity, allowing civil society and local communities to express their positions (Office of the United Nations High Commissioner for Human Rights, 2007).

The peacemaking model must take a center place in the discussions, but it ought to do so from a position of strength that can convince participants of the potential of community-based treatment. Supporters must argue that measures such as parole are more cost-effective and better at promoting social reintegration (UNAFEI, 2021) and point to the social costs and limitations of excessive imprisonment (United Nations, 1993). These arguments should consider the resistance against advocating for improving offenders' conditions or the calls for more restrictive penitentiary conditions. Depending on the economic conditions of a nation, support for reintegrative measures might face stringent opposition, especially if welfare-oriented measures are not accessible to sectors of the general population (UNODC, 2013). A peacemaking model must adapt to these conditions without sacrificing its principles, using community resources available and creating special administrative measures that can take their place whenever possible.

Legislation based on the peacemaking model should keep human rights principles as guidelines for good governance. Human rights provide a set of values to guide that limit undue state intervention and punitive actions. The United Nations Commission on Human Rights has emphasized that good governance and human rights protection are mutually reinforcing (Office of the United Nations High Commissioner for Human Rights, 2007) and that legal frameworks compatible with human rights principles are prerequisites to harmonious relationships. To successfully integrate these principles, national discussions must enable public participation, negotiation, and consensus-building. Otherwise, legislative projects risk unnecessary confrontations and misapprehension of the goals of human rights-oriented laws.

Table 24. Normative Standards: Clarity in legislation.

Principle	Description
Clarity	- Laws should promote reintegration as the methodological foundation of parole, including support measures (welfare-oriented), community involvement, restorative procedures, regional collaboration, and technical supervision. - The tenets of reintegration from a peacemaking perspective ought to define the concrete goal of every procedure and justify parole criteria, conditions, and disciplinary measures. - Offenders' responsibilities, the roles and functions of participants, and support institutions must interconnect and have common aims.

Note: Table created from Chapter 4's observations and the Tokyo Rules.

The Tokyo Rules stress the importance of a legal framework for every aspect of community-based systems, sustained by lawful principles that guarantee the protection of human rights. Legal frameworks must comprehensively regulate every relationship and action that would affect one or more fundamental rights in the penitentiary setting. Further, implementing policies aligned with human rights relies on conducive legal environments that regulate the managerial and administrative processes responsible for the population under their supervision (Office of the United Nations High Commissioner for Human Rights, 2007). However, it is also necessary that laws define the purpose of each procedure and the principles that reflect the institution's orientation.

Laws based on the peacemaking model must clearly define the parole system's principles and actions. Particularly, the concept of reintegration should become the pivotal point around which parole revolves and guide the interpretation of community-based treatment. From a peacemaking perspective, reintegration not only refers to the transition period following incarceration nor the continuous care during community-based supervision (Hamin and Abu Hassan, 2012), but it also refers to the involvement of the community in criminal justice procedures and the active collaboration of external support institutions. The interaction between parole officers, offenders, communities, victims, and institutions requires concise but comprehensive regulation to clarify the responsibilities and roles of each actor during reintegration.

Table 25. Normative Standards: Demarcation of community-based treatment.

Principle	Description
Demarcation	- Demarcating the distinct approach and function of parole from other programs enhances the specialization of every procedure. Parole officers' qualifications should differ from penitentiary officers and police to further enhance that distinctiveness. - Treatment programs that differ from institutional treatment activities and consider the duration of the measure and availability of support resources better adjust to parolees' needs, - Cooperation is more effective when the laws delineate which institutions can collaborate with parole offices and which institutions deserve preferential attention.

Note: Table created from Chapter 4's observations and the Tokyo Rules.

The Tokyo Rules also mention comprehensive national plans that include employment, education, social welfare, and health policies. Although the peacemaking perspective supports these policies as contributors to crime reduction and the promotion of social stability, it would be difficult for a parole model to advocate such policies. However, whenever social welfare-oriented institutions exist, comprehensive parole legislation must include them and active involvement in offender support measures. Suitable mechanisms to formalize the relationship between external institutions and the parole system are necessary to create special procedures that respond to offenders' needs in the community.

The peacemaking model increases the separation between prison and life in the community in recognition of imprisonment's adverse effects on social reintegration, particularly in offenders who spend prolonged periods in prison without adequate social interactions. A peacemaking parole model considers it necessary that community-based treatment follows distinct approaches from those in prison, conditioning the system to the community environment without reproducing prison norms outside its walls. For reintegration, parole needs to meet each offender's needs and involve various stakeholders to decrease environmental risks that lead to reoffending (UNAFEI, 2021).

Parole officers in a peacemaking model must possess different qualifications from penitentiary and police officials to enhance the specificity of community-based treatment. Special regulations should indicate the roles and responsibilities of parole officers from a reintegrative perspective, including function-specific training and setting up technical arrangements that correspond to the needs of community-based surveillance.

3. Disciplinary Standards

Two major concerns of a peacemaking model are parole accessibility and the capability of parole officers to become effective support agents. To minimize the risk of reoffending, parole assessment procedures must have sufficient time to examine each offender and involve technically savvy officials who can evaluate each case from multiple points of view. In addition, parole systems must guarantee that offenders receive a fair opportunity to state their case. To this end, the agencies responsible for parole approval must possess sufficient discretionary power to initiate parole investigation, and the parole assessment procedure must include hearings where each party can discuss the information available.

Table 26. Disciplinary Standards: Parole officer's qualifications.

Principle	Description
Qualifications	- Multiple disciplinary areas to develop community-based operations enhance the range of control and support measures. A varied approach also covers the needs of the participants in the parole process. Disciplinary areas might include education, social work, psychology, law, criminology, or others contributing to welfare, employment, community building, and conflict resolution. - Parole officers benefit from multidisciplinary training to equip them with the necessary knowledge to supervise and support parolees. Officers should possess the skills to manage offenders, engage with community members, communicate with support institutions, and organize treatment and restorative programs. - Interdisciplinary work to introduce and assess treatment programs strengthens the operation of central administrative offices. If possible, specialists in each disciplinary area will head departments responsible for training parole officers in specific areas.

Note: Table created from Chapter 4's observations and the Tokyo Rules.

The peacemaking model supports multidisciplinary and interdisciplinary work models to operate a parole system. Empirical tools that have proven effective in promoting reintegration require specialized officers to rigorously evaluate, apply, and improve them (UNAFEI, 2021). Staff who possess a broad array of social and technical skills are also more capable of managing conflicts during parole in a reintegrative manner than officers who solely

focus on control and security[99]. Therefore, the peacemaking model considers that the specialization of parole officers is a prerequisite to effectively engage in reintegration, assigning equal weight to parole's control and support roles, and setting up a “middle-ground” position (Dandurand et al., 2008; as cited in Hamin and Abu Hassan, 2012, p. 327).

In the present model, parole officers with a multidisciplinary background would manage parole supervision and interact with the community. Multidisciplinary preparation enables officers to work individually and as a group, possessing similar skills to address emerging situations. On a technical level, officers can work with disciplinary tools and assess their effectiveness in the field. Moreover, multidisciplinary training would include other skill-formation activities to help officers interact with external institutions and better communicate with community agencies.

On an administrative level, the present model favors interdisciplinary work, with discipline-specific departments that can administer each technical content according to their capabilities. This work regime separation follows the Tokyo Rules recommendation 21.2, which stresses the importance of regular assessments of treatment programs in community-based treatment. Generalist parole officers as generalists could supply first-hand accounts of the programs' applicability, but specialists in disciplinary areas can assess each program’s effectiveness.

Although the present model points to specific disciplinary areas, each country can include as many as it considers necessary or can support. A parole system does not need separate departments to manage disciplinary areas in the central administration if parole officers receive multidisciplinary training. However, interdisciplinary work has advantages borne from the specialization of each area, such as enabling the system to incorporate discipline-specific advances. Furthermore, from a peacemaking perspective, different perspectives and consensus-building culture within criminal justice institutions is necessary to promote reintegration as a general policy.

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[99] See Chadwick, Serin and Lloyd, 2020; Haas and Smith, 2020; Trotter, 2020 (UNAFEI, 2021, p. 34).

Table 27. Disciplinary Standards: Parole criteria.

Principle	Description
Parole criteria	- Rules for recidivists must not exclude prisoners just because of their condition as reoffenders but because of the content of the offense. - Criteria must be clear, achievable, and communicated to prisoners. Including institutional and non-institutional criteria promotes reintegration from an early stage. - First-time offenders and low-level offenders should have access to parole at earlier stages.

Note: Table created from Chapter 4's observations and the Tokyo Rules.

The peacemaking model establishes a differentiated approach to parole criteria according to each offender's condition. Denying parole solely because of a recidivist condition is unfair if it does not consider the content of the offense or the time passed between one offense and the next. A peacemaking parole law must create clear criteria to assess each case concerning the present condition of offenders and avoid boxing offenders into categories based on past infractions. Assessing past infractions is necessary, especially in cases where the infractions are serious, but it should not become an automatic limitation to offenders who committed minor infractions and could benefit from reintegrative supervision.

To ensure that offenders receive equal and fair treatment, they must have access to the information on early-release and the conditions necessary to achieve it. Prisoners who have a clear understanding of the criteria and parole assessment periods show significant improvement in their engagement and behavior (UNAFEI, 2021). These conditions should not only include institutional requirements but also incorporate external conditions such as family interactions, the possibility of employment, availability of support resources, and community involvement. Moreover, when possible, restorative justice programs that promote the interaction between offenders and victims should find a place within institutional treatment programs and a non-mandatory criterion for parole.

Restorative justice programs at an early stage can significantly impact offender reintegration. In countries that place weight on remorse, restorative justice programs can provide an alternative to assess the offender's subjective condition and serve as an additional source of information for parole examinations. Crime, as an act against a person or a community, disrupts community harmony and good relationships, but imprisonment itself cannot repair that disruption (Gesualdi, 2014). Without proper and equitable attention to

victims and communities, the offender's return to the community can further increase feelings of unease and result in backlash. Therefore, including the restorative process as an optional parole criterion could incentivize the interaction between offenders and the community, ensuring that offenders take responsibility for their actions and that communities have interacted with offenders before their release (Gesualdi, 2014).

Table 28. Disciplinary Standards: Parole assessment.

Principle	Description
Parole assessment	- Independent agencies should oversee the parole process and possess the discretion to mandate the beginning of investigations. - The parole assessment should include offenders, offenders' families, community members, judicial authorities, parole officers, and victims. Information relevant to the offender's behavior in prison should be accessible to parolees. - The decision to approve or deny parole should occur in a hearing where prisoners can state their case. In specific cases, the law should include an appeal process.

Note: Table created from Chapter 4's observations and the Tokyo Rules.

From a peacemaking perspective, it is necessary for a parole system to prevent undue restrictions and incentivize access to parole assessments. To this end, independent parole assessment agencies must have the discretion to order an investigation at the earliest opportunity or receive a request from prisoners after the first review. Even if the parole assessment does not result in parole approval, the investigation fulfills reintegrative purposes. Prisoners will receive opportune information on their progress, familiarize themselves with the parole evaluation process, and gain incentives to participate in treatment activities and come in contact with external resources. The parole assessment agencies need to organize a hearing where the information is accessible, and different parties can state their opinion in favor or against the measure when there are sufficient merits to deliberate on the application. However, the investigation can limit itself to collecting information if the case does not require a hearing.

Parole assessment should involve parole offices, community assets, judicial authorities, offenders' family members, prospective employers, and victims. Collaboration is crucial for establishing a closer relationship with community offenders and evaluating the validity of information (Hamin and Abu Hassan, 2012). The level of involvement will vary, but

at a minimum, each participant should be able to send written communications to state their opinion.

For parole approval, the authorities should balance their decisions between satisfying societal needs, the offender's possibility of reintegration, and the victim’s needs. When the assessment is negative, the prisoner must receive a report on the reasons supporting the decision and, in concrete cases, can appeal to a superior administrative office. The report should include a list of achievable and realistic recommendations and a timeframe for the next investigation. The parole assessment must be precise because vague criteria or conditions will only confuse the offender and difficult reintegration (United Nations, 1993).

4. Control Standards

The present model does not oppose forms of surveillance that allow the authorities to monitor parolees' movements through electronic mechanisms or involve other agencies, such as police or volunteers, to conduct follow-up visits. However, from a peacemaking perspective, mechanisms and technologies that can only contribute to control without a support dimension are less likely to contribute to reintegration, especially in cases where parolees face significant personal challenges (UNAFEI, 2021). Limiting the control role of parole to ensure offenders’ compliance is insufficient. A peacemaking parole model considers that proper supervision must manage "the offenders’ risks, coordinating resources to meet their needs, and developing and maintaining a trust-based human relationship with them" (UNAFEI, 2021, p. 16).

Control in the present model of parole supervision is “help-oriented”, contributing to an environment that can assist parolees in overcoming conditions that influence reoffending (UNAFEI, 2021). In this model, parole conditions must balance the risk management requirements with support needs to ensure that parolees do not pose a risk to their communities while minimizing the obstacles they may find after release.

Table 29. Control Standards: Control and support in community-based treatment.

Principle	Description
Control and support	- The law must define mandatory and optional conditions. Conditions should correspond to the capabilities of each office to offer support and monitor offenders' progress. Optional conditions depend on the discretion of parole agencies, and their purpose is to intervene in specific criminogenic factors. Other optional conditions can include volunteer work at the discretion of offenders and restorative justice protocols. - Control actions are not solely the responsibility of parole officers. Support institutions, community organizations, volunteers, police officers, employers, and the parolee's family must maintain communication channels with parole officers to assist in the control role. - To determine parole conditions, the offender, employers, support institutions, and volunteers should contribute to establishing manageable working schedules.

Note: Table created from Chapter 4's observations and the Tokyo Rules.

Rule 10.2 of the Tokyo Rules requires that the law appoints the agents responsible for community supervision, which may include community groups or volunteers. The present model distributes the control responsibilities to agencies under the direction of parole officers. These agencies also contribute to offenders' support through community interactions. To this end, the parole conditions must include measures to ensure parolees meet support institutions and community organizations, promoting a compliance model that motivates respecting rules and guarantees access to localized support programs.

The parole conditions should adapt to the circumstances of each offender and the availability of resources in the projected community. Clear criteria are necessary for parole agencies to ensure that each parolee receives equal treatment, adapting to the offender's individuality to guarantee reintegration (United Nations, 1993). From a peacemaking perspective, offenders should voice their opinions during the development of parole conditions and, in specific cases, suggest alternative programs that they wish to participate (Gesualdi, 2014). It is also relevant that community organizations, parole offices, volunteer programs, and victims can voice their approval or disapproval of the conditions and suggest that offenders participate in treatment programs or volunteer activities.

Not every condition should last for the duration of parole. The Tokyo Rules refer to the principle of minimum intervention, which considers that setting determinate periods for

certain conditions improves offenders' reintegration (United Nations, 1993). Support programs should aim to improve the offender's environmental conditions to minimize the risk of recidivism or fallback into negative behavioral patterns (UNODC, 2013). However, these programs must have clear goals that, once achieved, allow offenders to live independently in the community. Parole conditions must, therefore, contemplate minimum standards for complying parolees, signaling the level of trust an offender can earn from respecting the rules and decreasing the necessity for control.

Table 30. Control Standards: Progress evaluation during parole.

Principle	Description
Progress evaluation	- Depending on the duration of the measure, periodical and goal-based evaluations help parole officers assess each offender's compliance with the parole conditions. - The law must determine the criteria for progress evaluation and the resources available to parole officers to reform or remove them. Parole officers must communicate the evaluation’s results to parolees and other agencies or institutions affected. - Progress evaluation must include reports from the agencies involved in control and support, including parolees. Parolees can request a revision from the parole office director if they disagree with the assessment report.

Note: Table created from Chapter 4’s observations and the Tokyo Rules.

The Tokyo Rules establish in rule 10.3 the necessity of periodic reviews. Although this is the preferred standard for progress examination, there are instances where the parole measure's duration is too short for periodical review. In these cases, goal-oriented reviews can contribute to a better form of assessment based on the completion of specific programs. For all other cases, periodic review stays the norm, but this should vary relative to the projected parole duration.

The purpose of reviews is to modify the parole conditions according to parolees’ progress. In this sense, the Tokyo Rules rule 12.4 states that if offenders respond favorably to the intervention plan, the conditions should change to reflect that circumstance. Moreover, the rules recommend that the review process allow parolees to state their case (United Nations, 1993). From a peacemaking perspective, it should be possible for all agencies involved to voice their opinion during the review process. Their intervention may include suggestions to continue the application of treatment programs or suggest new ones, but they

must rely on concrete considerations of the facts and offenders' needs. To guarantee equal treatment and access to information, parole officers must send a report to offenders justifying the decision, after which, in case of disagreement, the parolee could request a review with a superior officer.

Table 31. Control Standards: Disciplinary measures during parole.

Principle	Description
Disciplinary measures	- The law must determine the prohibited actions and the appropriate disciplinary responses. Disciplinary measures must vary according to the infraction, including variations of parole conditions, participation in treatment programs, and restorative protocols before applying the cancellation. - To apply a disciplinary measure, parole officers can organize hearings where offenders will state their case, the evidence assessed, and a decision made. - In cases of police detention for grievous infractions or repeated unjustified violations of the parole conditions, parole officers will report to the superior authority. This authority will deliberate on the measure's cancellation or automatically apply it if the parolee receives a guilty verdict in a criminal court.

Note: Table created from Chapter 4's observations and the Tokyo Rules.

The peacemaking model includes a variety of disciplinary measures according to the severity of the infraction, aiming to reduce re-institutionalization just for the violation of parole conditions. Here, the discretion of parole officers must find support in clearly delimited rules to assess each circumstance. As rule 12.3 of the Tokyo Rules suggests, parolees must have received communication about their obligations and consequences of non-compliance, but they must have an opportunity to defend their case to guarantee that the disciplinary procedure is fair. In cases where the parolee committed a serious infraction or has repeatedly violated parole conditions, the decision to cancel the measure should rest in a superior authority that will base its decision on a criminal conviction or the parole officers' reports.

Among the disciplinary measures for lesser violations, the parole system should include restorative justice or treatment programs, increment the periodicity of meetings with control agencies, participation in volunteer or socially positive activities, and any other that will foment community integration.

5. Community Standards

The peacemaking perspective seeks to retrieve offender intervention from the alienating hands of exclusive government intervention. The specialization of criminal justice institutions, despite the advances made in penitentiary treatment and rights protection, has taken away responsibilities from civil society in crime prevention and resocialization. Community-based treatment can facilitate social reintegration by providing the appropriate balance of supervision and support through effective collaboration between parole offices and community resources (UNAFEI, 2021).

For collaborative environments, parole systems must regulate interinstitutional relationships and distribute roles according to offenders' needs and institutional capabilities. Volunteers and community organizations can support offenders and save governmental resources (UNAFEI, 2021). However, not every country has an organized body of volunteers for offender supervision. It is, therefore, necessary for parole systems to actively seek out community resources when available and foment the creation of volunteer groups adjusted to the needs of the parole system.

Table 32. Community Standards: Parole agencies and public communication.

Principle	Description
Public communication	- Parole systems must regulate public communication activities as a pilar of community-based treatment, collaborate with public and private organizations to expand the knowledge on parole, and incentivize the publication of periodic reviews and informative documents. - Information on the parole system must actively communicate the goals of community-based treatment, organize activities that promote the values of peacemaking, and promote the sense of collective responsibility in creating safer environments. - Parole offices must collect information to communicate the effectiveness of community-based treatment and maintain communication channels with local networks to involve criminal justice institutions in community-building efforts.

Note: Table created from Chapter 4’s observations and the Tokyo Rules.

A peacemaking model incorporates rules 17.1, 18.2, 18.3, and 18.4 of the Tokyo Rules to inform the public about the relevance of community-based treatment and the importance of public participation. Communication is necessary as a good governance practice and to promote an understanding of the goals the parole system pursues. Effective communication is essential to ensuring that information is accessible to knowledge-producing

sectors, such as media and academic institutions, which will contribute to community-based treatment, whether by confronting, validating, or improving it.

Another goal of effective public communication is to create a positive climate for non-custodial measures and their expansion. If a peacemaking parole model expects to collaborate with local institutions and community organizations, it needs to set the foundation for public comprehension of the importance of social cooperation to reintegrate offenders into society. To this end, on a political level, the central administration must create regulations for public communication and work with other institutions to develop information channels and resources. These regulations must include guidelines for parole officers to outline their responsibilities and the concrete purposes of public communication.

Table 33. Community Standards: Interinstitutional collaboration with welfare agencies.

Principle	Description
Interinstitutional collaboration	- Laws must define interinstitutional collaboration with support organizations as a pillar of community-based treatment. - The parole system must concretely mention which institutions can become collaborators and indicate which organizations deserve special considerations or regulations. - The law must assign specific roles to collaborating institutions and create special procedures to ensure the satisfaction of control and support needs in the community. Collaborators can work with offenders, communities, and victims within the parole system.

Note: Table created from Chapter 4's observations and the Tokyo Rules.

Rule 22.1 of the Tokyo Rules indicates that criminal justice institutions should make the necessary links with the social and welfare agencies to contribute to the control and support roles of parole. Interinstitutional collaboration can include government and private organizations in diverse fields, but their involvement in the parole system should look toward supplying services that satisfy the needs of offenders and communities. Collaboration can include the development of employment networks, educational activities, community-building events, welfare-oriented services, and restorative justice programs. Regarding the control and supervision of offenders, collaborators can help parole officers by informing them of parolees' progress or participation in particular activities, but they should not supplant parole officers' monitoring functions.

Collaboration with institutions and community organizations also plays a vital role in meeting the offender and other participants' needs. Parolees can participate in local events to improve the community environment as part of their treatment plan, thus engaging in socially positive activities. Such collaboration can contribute to parole officers' management of case-load assignments, partially relegating offender supervision to community assets (United Nations, 1993). Other institutions can organize special treatment programs not available in the criminal justice system. Drug or alcohol addiction, domestic violence, or gang-related violence programs require an elevated level of preparation and work, decreasing parole officers' available time to manage cases. Therefore, whenever parole offices delegate responsibilities to collaborators, there need to be special procedures in place to guarantee that the programs or activities performed align with the principles of peacemaking and reintegration.

Table 34. Community Standards: The community's role in parole.

Principle	Description
Community involvement	- Parole agencies must engage with community representatives and identify community organizations that can collaborate with parole offices. Community organizations must improve the local environment and promote activities toward achieving specific goals. - Parole laws must include volunteer officers as community guides that can support parole officers and parolees. Clearly defined criteria must regulate qualifications, roles, and volunteer officers' responsibilities. - Community organizations and volunteers must receive preparatory training in the management of offenders. Administrative offices must develop training contents and conduct the training but should collaborate with external organizations to introduce novel programs and techniques. Whenever possible, the administration should create spaces where volunteers can meet with offenders.

Note: Table created from Chapter 4's observations and the Tokyo Rules.

In addition to interinstitutional collaboration, the interaction between parole authorities and the community is essential to a peacemaking parole model. Parole offices must use the full range of community resources to aid offenders. Community organizations and volunteers can help offenders strengthen their ties in the community and broaden the possibilities for contact and support (United Nations, 1993). The Tokyo Rules emphasize the role of community involvement in non-custodial measures, such as rules 1.2, 13.4, 17.2, 18.1,

and 19.1. Generally, this community involvement could include social support systems such as the family, neighborhoods, schools, and the workplace. In a narrow sense, community involvement could also include ties with social or religious organizations, volunteers, and community groups that regularly take part in community-building activities.

Involving the community does not solely benefit parolees. While parolees gain access to community networks, they can also contribute to improving their local environment. Moreover, volunteers and community members can gain knowledge of the treatment process and contribute to the protection of society. Collaborating with criminal justice institutions can expand the range of action of community organizations and make them aware of pervasive social issues that might have gone undetected.

Volunteers can support offenders in areas inaccessible to parole officers. Each volunteer can bring a unique perspective, and by being a member of their community or locality, there may be fewer communication obstacles between them and parolees. Volunteers will also have profound knowledge of the communities where parolees live and will be aware of the environmental challenges present, thus supplying valuable information to parole officers. However, the parole system must recognize that working with offenders can be challenging and demanding. It is necessary for parole authorities responsible for recruiting volunteers to have clear criteria for recruitment and training, as well as providing sufficient guarantees to prevent conflicts or minimize the occurrence of incidents.

Chapter 6

Conclusion

The present investigation attempted to address current issues in comparative research on parole systems. The method used here aimed to create empirically grounded criteria for comparative parole research to promote parole as a reintegrative support measure. In addition, the present investigation intended to present convincing arguments for expanding the field of examination of comparative research and actively endorse rehabilitative practices in parole as the foundations for new parole models.

The present investigation chose two countries with criminal justice systems oriented toward offender reform through community-based treatment programs as the main examination targets. The investigation aimed to use international parole legislation to identify criteria for comparing parole systems through a case study. The ultimate goal was to create a peacemaking parole model incorporating national and international experiences.

Chapter 1 presented the main challenges in comparative parole research, pointing to trends in traditional scholarship that limit the scope of comparative studies to a few nations, criticisms against rehabilitation in the penitentiary system, current practices in parole assessment, and the absence of comparative standards for nations signatory to the Tokyo Rules. The present study confronted these challenges by first comparing two non-traditional nations, showing how each country presented valuable contributions to the study of reintegrative criminal justice systems from two distinct criminal environments.

Secondly, the method followed in the present investigation emphasized rehabilitation and reintegration as empirically sound practices sustained by international research and the guidelines for future parole models and comparative studies. Thirdly, through an examination of parole's history and general legislation internationally, the present study developed comparative criteria from an offender support perspective.

Through parole and international regulations' examinations in Chapter 2, the present investigation found that the traditional demarcation between repression and support found in

punishment theory also defines parole models internationally. Since the 19th century, parole received attention as an alternative measure to aid offender's correction, but support for parole has not been universal. Parole has been subject to similar repressive trends experienced in prison systems worldwide, thus limiting the capability of parole agencies to conduct community-based interventions.

However, international human rights organizations have played a key role in promoting parole, sustained by empirical studies and international experiences that revealed the effectiveness of parole and other alternatives to imprisonment. Like the phenomenon of punitiveness in prison, the ideological confrontation between supporters of repression or rehabilitation in parole divides national policymakers and international specialists. Yet, international experiences on parole research enjoy a degree of reliability that can improve national practices. Particularly, the Tokyo Rules are a vital contributor to comparative studies and the development of future legislation because of its empirically oriented foundation to support offender reintegration.

After taking in the key characteristics of control and support practices in general parole theory and integrating them with the minimum standards found in the Tokyo Rules, the present study developed a set of comparative criteria. The comparative criteria created in Chapter 2 reflect specific aspects of parole management in most parole systems, thus ensuring that future comparative examinations can focus on the areas most relevant to offender control and supervision. Furthermore, the criteria contribute to the in-depth comparison of support-oriented practices in the parole systems studied.

The comparison in Chapter 3 and Chapter 4 revealed shared principles between the Costa Rican and Japanese parole systems, such as specialization of parole and community-based treatment, application of support measures, and community integration. But critical differences in approach also revealed clear advantages in the Japanese system, specifically in normative development. Nonetheless, both systems show evident signs of promoting rehabilitation in very distinct criminal environments, illuminating the diverse challenges nations at various stages of development may face in the introduction of support-oriented parole systems.

Critically, Chapter 4's analysis showed how institutional traditions and external limitations can affect the application of parole if legislation is not comprehensive enough or does not fully integrate rehabilitation and offender support measures throughout the system. For example, the Costa Rican penitentiary system employs interdisciplinary teams for parole supervision, but institutional circumstances make this deployment impossible. In Japan, penitentiary authorities approve parole until the later stages of the criminal sentence, regardless of the periods described in criminal legislation.

Thus, the comparison revealed that despite rehabilitation-oriented policies and measures within the Japanese and Costa Rican parole legislation, both systems do not fully integrate support-oriented policies in vital procedures that could significantly improve offender control and rehabilitation. Operationally, the Japanese parole assessment procedure restricts access to information to offenders, and parole is a form of controlled re-entry. Legally, the Costa Rican system lacks a solid foundation and clarity, impeding the collaboration with community assets on a large scale.

Based on the observations from Chapter 2, Chapter 3, and Chapter 4, Chapter 5 presents a peacemaking parole model that promotes reintegration, community involvement, restorative justice, and fairness through concrete measures. These measures considered general traits of parole systems globally, the Tokyo Rules' standards, the strong points and weaknesses of Japanese and Costa Rican legislation, and social reinsertion and peacemaking principles.

The peacemaking parole model encourages a continuous development toward fairer and more effective criminal justice practices, founded on international cooperation and shared experience from the broadest range of actors possible. The model aims to further take in from other nations' legislations, particularly regarding restorative justice programs and good governance practices in communication. Importantly, the contribution of the peacemaking parole model goes beyond the recommendations or measures found within it. Rather, emphasizing peacemaking as a guiding principle from the start while aiming toward creating more just institutions is the main contribution of the present model.

Lastly, the present study acknowledges that implementing the peacemaking parole model may pose significant challenges for criminal justice systems. While the model aims to promote a more peaceful and restorative approach to justice, it may appear overly restrictive or difficult to implement. Despite the best efforts to prevent such conditions, the recommendations associated with this model may require significant resources and a fundamental shift in the criminal justice operation. Additionally, building the necessary infrastructure and developing the skills to implement the peacemaking parole model takes time. Nonetheless, peacemaking requires a degree of action not satisfied by minimum conditions, and the criminal problem deserves the full attention of criminal justice institutions, especially when social unrest and disintegration become prevalent phenomena. The potential benefits of this model, including reduced recidivism rates and improved community relations, make it a worthwhile endeavor for those committed to promoting a more just and peaceful society.

References

Abarca, D. (2009). *Prontuario del Sistema Penitenciario Costarricense [Summary of the Costa Rican Penitentiary System].* San José: Dirección General de Adaptación Social.

Administrative Organization of the Ministry of Justice and Peace, Organización Administrativa del Ministerio de Justicia y Paz, Decreto No. 41109-JP (Ministerio de Justicia y Paz 2018).

American Psychological Association. (2020). *Publication Manual of the American Psychological Association* (7th ed.). doi:https://doi.org/10.1037/0000165-000

Atkinson, D., and Travis, J. (2021). The Power of Parsimony. *The Square One Project Executive Session on the Future of Justice Policy, May* (pp. 2-46). New York: Columbia University. Retrieved (July 30th, 2023) from https://squareonejustice.org/paper/the-power-of-parsimony-by-jeremy-travis-and-daryl-atkinson-may-2021-2/

Badilla, Y. (Interview, 2022, April 23).

Banks, C., and Baker, J. (2016). *Comparative, International and Global Justice: Perspectives From Criminology and Criminal Justice.* SAGE Publications.

Bedoya, J. (2022). *Bienestar o Castigo: Los debates por las políticas penitenciarias en Costa Rica (2014-2018) [Welfare or Punishment: Penitentiary Debates in Costa Rica (2014-2018)].* San José: Editorial UCR.

Berk, R. et al. (2021). Fairness in Criminal Justice Risk Assessments: The State of the Art. *Sociological Methods and Research, 50*(1), pp. 3-44. doi:10.1177/0049124118782533

Berman, D. (2017). Reflection on Parole's Abolition in the Federal Sentencing System. *Federal Probation Journal, 81*(2), pp. 18-22. Retrieved (June 30th, 2023) from https://www.uscourts.gove/federal-probation-journal/2017/09/reflecting-paroles-abolition-federal-sentencing-system

Bonta, J. (2012). The RNR Model of Offender Treatment – Is there value for community corrections in Japan. *更生保護学研究, 1*, pp. 29-42. Retrieved (April 19th, 2021) from https://www.kouseihogogakkai.jp/pdf/number01.pdf

Braithwaite, J. (2006). *Crime, Shame and Reintegration* (2nd ed.). NY: Cambridge University Press. doi:10.1014/CBO9780511804618

Braithwaite, J. (2014). Limits on Violence: Limits on Responsive Regulatory Theory. *Law & Policy, 36*(4), 432-456. doi:10.1111/lapo.12026

Camacho, C. (Interview, 2023, April 27).

Carranza, E. (2012). Sobrepoblación Carcelaria en América Latina y el Caribe: ¿Qué Hacer?¿Qué no Hacer?[Prison Overpopulation in Latin America and the Caribbean: What to do? What not to do?]. *Anuario de Derechos Humanos, 8*, pp. 31-66. doi:10.5354/adh.v0i8.20551

Carranza, E. (n.d.). *El Modelo Penitenciario Costarricense [The Costa Rican Penitentiary System].* San José: ILANUD.

Centro de Estudio de Justicia de las Américas. (2021). *Sistemas Penitenciarios y Ejecución Penal en América Latina: Una Mirada Regional y Opciones de Abordaje.* Valencia: Tirant lo Blanch.

CIDH. (2016). *Relatoría sobre los Derechos de Personas Privadas de Libertad realiza visita a Costa Rica [Prisoner Rights envoys visit Costa Rica).* Washington: OEA. Retrieved (September 30th, 2021) from https://www.oas.org/es/cidh/prensa/Comunicados/2016/032.asp

CIJUL. (2011). *La Libertad Condiciona [Parole].* San Jose. Retrieved from https://cijulenlinea.ucr.ac.cr/2011/la-libertad-condicional/

Consejo Nacional de Rectores. (2017). *Programa Estado de la Nación: Segundo Informe estado de la justicia [2nd State of Justice Report].* San José: Servicios Gráficos.

Consejo Nacional de Rectores. (2020). *Tercer Informe del Estado de la Justicia [3rd Report on the State of Justice].* San José: PEN.

Constitutional Reform (Creación de la Sala Constitucional), L.A. of Costa Rica, Law No. 7128 (1989).

Constitutional Ruling, Sala Constitucional, No. 0709-91 (1991).

Constitutional Ruling, Sala Constitucional, No. 6829-93 (1993).

Constitutional Ruling, Sala Constitucional, No. 2807-06 (2006).

Constitutional Ruling, Sala Constitucional, No. 21466-18 (2018).

Constitutional Ruling, Sala Constitucional, No. 21466-18 (2018).

Constitutional Ruling, Sala Constitucional, No. 22207-21 (2021).

Constitutional Ruling, Sala Constitucional, No. 21931-21 (2021).

Corrections Bureau. (2019). Penal Institutions in Japan. Tokyo, Japan. Retrieved (June 28th, 2023) from https://www.moj.go.jp/EN/kyousei1/kyousei_kyouse03.html

Corrections Bureau. (2022). *矯正処遇等の在り方に関する検討会報告書 [Report on the Council for the Consideration of the State of Penitentiary Institutions].* Tokyo: Ministry of Justice. Retrieved (June 14th, 2023) from https://www.moj.go.jp/kyousei1/kyousei05_00143.html

Coverdale, H. (2017). Punishment and Welfare: Defending Offender's Inclusion as Subjects of State Care. *Ethics and Social Welfare*, pp. 1-16. doi:10.1080/17496535.2017.1364398

CrimeInfo. (2023). *無期刑仮釈放者の受刑在所期間 [Time spent in prison for parolees sentenced to undetermined prison terms].* Tokyo. Retrieved (June 14th, 2023) from https://www.crimeinfo.jp/wp-content/uploads/2023/08/statistics_07-5_2022.pdf

Criminal Code [刑法], H.R. of Japan, Law No. 45 of M. (1907).

Criminal Code [Código Penal], Congress of Costa Rica, Law No. 11 (1924).

Criminal Code [Código Penal], Congress of Costa Rica, Law No. 368 (1941).

Criminal Code [Código Penal], L.A. of Costa Rica, Law No. 4573 (1970).

Criminal Procedure Code [Código de Procedimientos Penales], L.A. of Costa Rica, Law No. 5377 (1973).

Crimmins, T. (2018). Incarceration as Incapacitation: An Intellectual History. *American Affairs, II*(3), pp. 144-166. Retrieved (June 28th, 2023) from https://americanaffarisjournal.org/2018/08/incarceration-as-incapacitation-an-intellectuall-history/

Darke, S. et. al (2021). *Carceral Communities in Latin America* (1st ed.). (S. Darke et al., Eds.) Palgrave Macmillan. doi:10.1007/978-3-030-61499-7

de Cruz, P. (1999). *Comparative Law in a Changing World* (2nd ed.). London: Cavendish Publishing.

De Giorgi, A. (2006). *Re-Thinking the Political Economy of Punishment: Perspectives on Post-Fordism and Penal Politics.* London: ASHGATE. doi:10.4324/9781315244273

Dikötter, F., and Brown, I. (2007). *Cultures of Confinement: A History of the Prison in Africa, Asia and Latin America.* (F. Dikötter, and I. Brown, Eds.) Ithaca: Cornell University Press.

Dirección General de Adaptación Social. (2006-2020). *Memorias Anuales Institucionales [Institutional Memoirs].* San José: Ministerio de Justicia y Paz. Retrieved (September 30th, 2021) from https://www.mjp.go.cr/Documento/Catalogo_DOCU/64

Dirección General de Adaptación Social. (2009-2022). *Informes Anuales del Sistema Penitenciario Costarricense [Costa Rican Penitentiary Systems' Annual Reports].* San José: Ministry of Justice of Costa Rica. Retrieved (June 1st, 2023) from https://www.mjp.go.cr/Documento/Catalogo_DOCU/64

Dirks, M., and Mills, J. (2015). *Grounded Theory: A Practical Guide* (2nd ed.). London: SAGE Publications Ltd.

Downes, D., and Hansen, K. (2006). Welfare and punishment in comparative perspective. In S. Armstrong, and L. McAra, *Perspectives on Punishment: The Countours of Control* (pp. 133-154). Oxford: Oxford University Press.

Electronic Surveillance Law [Mecanismos electrónicos de seguimiento en materia pena], L.A. of Costa Rica, Law No. 9271 (2014).

Esquivel, Y. (Interview, 2022, September 14).

Esquivel, Y. (Interview, 2023, April 24).

Feoli, M., and Gómez, M. (2022). El Sistema Penitenciario Costarricense: Decisiones Políticas Punitivistas Y La Paradoja De Un Modelo Sustitutivo Al Abuso De La Prisión[The Costa Rican Penitentiary System: Punitive Policymaking and the Paradox of a Substitutive Prison Model]. *Anuario Centro De Investigación Y Estudios Políticos, 13*, pp. 11-41. doi:https://doi.org/10.15

Feoli, M., and Mora, J. (2020). Nuevos Problemas y Viejos Desafíos de la Ejecución Penal en Costa Rica: La Actuación de los Jueces a Propósitio de las Órdenes Paliativas Para Atender el COVID-19 en las Cárceles [Case Study of Court Orders in the Penitentiary System during COVID-19]. *Revista IUS Doctrina, 13*(2), pp. 1-33. Retrieved (July 1st, 2023) from http://revistas.ucr.ac.cr/index.php/iusdoctrina

Foote, D. (2021). “Benevolent Paternalism” Revisited. *USALI East-West Studies, 1*(1), pp. 1-10. Retrieved (May 27th, 2020) from https://usali.org/comparative-views-of-japanese-criminal-justice/benevolent-paternalism-revisited

Francois, B. (2019). *The Upper Limit: How Low Wage Defines Punishment and Welfare.* Oakland: University of California Press.

Fujimoto, T. (2013). *新時代の矯正と更生保護 [Modern Correction and Rehabilitation].* Tokyo: 現代人文社.

Fulham, L. (2019). International Trends in Community Alternatives to Incarceration: A Literature Review. *Task Force on Women and Community Corrections*. International Corrections and Prison Association. Retrieved (May 13th, 2023) from https://icpa.org/static/967e5124-6387-4b33-8416bb2b5ed6c4dd/International-Trends-in-Community-Alternatives-to-Incarceration-A-Literature-Review.pdf

García, J. A. (2006). El Obediente, el Enemigo, el Derecho Penal y Jakobs. *Nuevo Foro Penal, 69*(1), PP. 100-136. Retrieved from https//dialnet.unirioja.es/descarga/articulo/3823074.pdf

Garcia, S. (2015). Los Sistemas de Libertad Condicional: Un Análisis de los Sistemas de Libertad Condicional Discrecional de Cataluña y de Libertad Condicional Automático de Suecia [Parole Systems: An analysis of Cataluña and Sweden's Parole Systems]. Universitat de Barcelona. Retrieved (June 8th, 2023) from https://diposit.ub.edu/dspace/bitstream/2445/67944/1/TFM_Sara%20Garcia.pdf

Garland, D. (2016). *The Welfare State: A Very Short Introduction* (1st ed.). Oxford: Oxford University Press.

Garland, D. (2018a). Theoretical Advances and Problems in the Sociology of Punishment. *Punishment & Society, 20*(1), pp. 8-33. doi:10.1177/1462474517737274

Garland, D. (2018b). Punishment and Welfare Revisited. *Punishment & Society*, pp. 1-8. doi:10.1177/1462474518771317

Gesualdi, L. (2014). *A Peacemaking Approach to Criminology.* Lanham: University Press of America.

Guidelines for Social Defense Council [Reglamento Orgánico del Consejo Técnico de Defensa Social], Ministerio de Gobernación, Policía, Justicia y Gracia, Decree No. 5 (1962).

Guidelines to "La Reforma" Prison [Reglamento del Centro de Adaptación Social "La Reforma"], Ministerio de Gobernación, Policía, Justicia y Gracia, Decree No. 6738-G (1976).

Hamachi, Y. (2012). 薬物依存のある保護観察対象者等にたいする地域支援パイロット事業について・ダルク等との連携モデルについて [Assessment of the Collaboration Between Community-Based Supervision and DARC]. *更生保護と犯罪予防, 54*, pp. 81-96. Retrieved (June 21st, 2023) from https://ndlonline.ndl.go.jp/#!/detail/R300000002-I023544519-00?lang=en

Hamin, Z., and Abu Hassan, R. (2012). The Roles and Challenges of Parole Officers in Reintegrating Prisoners into the Community under the Parole System. *Procedia - Social and Behavioral Sciences, 36*, pp. 324-332. Retrieved (May 13th, 2023) from https://www.sciencedirect.com/science/article/pii/S1877042812005034

Hazama, K., and Katsuta, S. (2013). 仮釈放者と執行猶予者の保護観察処遇の相違について—刑罰の基本原理を踏まえた考察—[The Difference Between Parole and Probation Treatment as Penal Measures: An Analysis Based on the Fundamental Principles of Punishment]. *Journal of the Graduate School of*

Humanities and Social Science of Chiba University, 61, pp. 345-352. Retrieved (February 2nd, 2022) from https:// cir.nii.ac.jp/crid/1050570022173879296

Hazama, K., and Katsuta, S. (2021). 保護観察におけるアセスメントツールの再犯予測力の検証 [Considerations on the Capability of Risk Assessment Tools in Community Supervision]. *千葉大学教育学部研究紀要, 69*, pp. 27-32. doi:10.20776/S13482084-69-P27

Hidesato, N., and Kazunori, O. (2014). 更生保護における性犯罪者処遇プログラムの現状と課題 [Challenges and Current Situation of the Community-Based Treatment for Sex Offenders]. *更生保護学研究, 5*, pp. 3-15. Retrieved (June 14th, 2023) from https://www.kouseihogogakkai.jp/pdf/number15.pdf

Hiroyuki, K. (2014). 出所受刑者の生活問題と社会復帰支援の課題 [Frequent Challenges for Offenders After Prison]. *Japanese Journal of Offenders Rehabilitation, 5*, pp. 16-28. Retrieved (April, 19th, 2021) from https://www.kouseihogogakkai.jp/pdf/number16.pdf

Ikoma, T. et al. (2009). 更生保護法下での保護観察官のアイデンティティーについて [Identity of the Community Supervision Officer After the Legal Reform of 2008]. *更生保護と犯罪予防, 151*.

Ikushima, H. (2009). 保護観察官に期待されるものーどこが変わらず、何が変わったのか [What to Expect From Community-Based Supervision Officers After the Reform of 2008]. *更生保護と犯罪予防, 151*, pp. 6-15. Retrieved (May 1st, 2020) from https://ndlonline.ndl.go.jp/#!/detail/R300000002-I10195056-00?lang=en

Institutional Development Plan [Plan de Desarrollo Institucional], Ministerio de Justicia y Gracia (1993).

Itaya, M. (2010). 保護司法改正後の 10 年 [Ten years After the Reform of the Volunteer Officers Law]. *更生保護と犯罪予防, 52*.

Izumi, Y. (2011). 特別調整によって更生への支援を受けられる人々[Rehabilitative Support for Elderly Offenders]. *更生保護と犯罪予防, 153*.

Javier, L. (2016). El "Éxito" del Populismo Punitivo en Costa Rica y sus Consecuencias [The "Success" of Punitive Populism in Costa Rica and its Consequences]. *Rvista Digital de la Maestría en Ciencias Penales, 8*(8), pp. 1-64. Retrieved (June 26th, 2022)from https://revistas.ucr.ac.cr/index.php/RDMCP/article/view/25288

Jinesta, R. (1940). *La Evolución Penitenciaria Costarricense [The Evolution of the Costa Rican Penitentiary System].* San José: Imprenta Falco Hermanos.

Joutsen, M. (2020). Re-Assessing the Role of Community-Based Sentences in the Context of the Sustainable Development Goals. *174th International Senior Seminar, January 16th - February 14th* (pp. 66-93). Tokyo: UNAFEI. Retrieved (May 13th, 2023) from https://www.unafei.or.jp/publications/pdf/RS_No111/No111_10_VE_Joutsen.pdf

Kamiichi, H., and Sanui, T. (2019). 一般市民の更生支援に対する認知及び参加意向の向上に向けた検討 [Improving Participation of Civil Population on Rehabilitation Processes]. *Japanese Journal of Offender Rehabilitation, 15*, pp. 54-64. Retrieved (April 19th, 2021) from https://www.kouseihogogakkai.jp/pdf/number15-5.pdf

Kato, R. (2013). 戦前から戦後復興期における保護観察制度の導入と変遷 [Introduction and Evolution of Community-Based Surveillance in the Pre-War and Post-War Era]. *応用社会学研究, 55*, 219-233. doi:10.14992/00005121

Katsuta, S. (2016). リスク・ニード・リスポンシビティモデルを踏まえた保護観察遇についての考察 [Theoretical study on Probation and Parole Treatment for Offenders in Japan Based on the Risk-Need-Responsivity Model]. *人文社会科学*

研究, 32, pp. 63-76. Retrieved (February 28th, 2022) from https://opac.ll.chiba-u.jp/da/curator/900119407/

Kikuta, K. (1972). 思想犯保護観察法の歴史的分析 [Historical Analysis of the Community-Based Surveillance for Ideological Offenders Law]. *法律論叢, 45*(1), pp. 85-126. Retrieved (February 28th, 2022) from http://hdl.handle.net/10291/3756

Knepper, P., and Johansen, A. (2016). *The Oxford Handbook of the History of Crime and Criminal Justice.* (P. Knepper, and A. Johansen, Eds.) Oxford University Press. doi:10.1093/oxfordhb/9780199352333.001.0001

Konagai, K. et al. (2010). *犯罪者の更生と地域コミュニティへのインクルージョンによる秩序形成の意義と可能性 [Possibilities and Contradictions of Social Inclusion and Rehabilitation of Offenders in Local Communities].* Tokyo: Kaken. Retrieved (September 11th, 2022) from https://kaken.nii.ac.jp/ja/file/KAKENHI-PROJECT-19610010/19610010seika.pdf

Kuroda, M. et al. (Interview, 2022, October 22).

LaBelle, D. (2008). Bringing Human Rights Home to the World of Detention. In C. Soohoo et al., *Ensuring Rights for All: Realizing Human Rights for Prisoners* (Vol. 3, pp. 79-134). Bringing Human Rights Home.

Langford, M. (2018). Critiques of Human Rights. *Annual Review of Law and Social Science, 14*, pp. 16-89. doi:10.1146/annurev-lawsocsci-110316-113807

Law for the Promotion of Peace [Modificación de la Ley Orgánica del Ministerio de Justicia, N° 6739, para que en adelante se denomine Ministerio de Justicia y Paz, y Creación del Sistema Nacional de Promoción de la Paz y la Convivencia Ciudadana], L.A. of Costa Rica, Law No. 8771 (2009).

Makoto, A. (2016). アメリカ合衆国における再犯防止策としての「リエントリー」について[Re-entry as a mechanism for the prevention of recidivism in the USA; Empirical study of the Rehabilitation System]. *Japanese Journal of Offenders Rehabilitation, 9*, pp. 14-23. Retrieved (April 19th, 2021) from https://www.kouseihogogakkai.jp/pdf/number9-2.pdf

Masaki, K. (2008). 犯罪者の社会復帰を真剣に考える・矯正保護とソーシャルインクルージョン・ [Meditating on Offender Social Reinsertion: Mandatory Measures

and Social Inclusion]. *更生保護と犯罪予防, 149*, pp. 75-88. Retrieved (April 19th, 2021)from https://iss.ndl.go.jp/books/R000000004-I9521430-00

Masatoshi, E. (2012). 更生保護改革前後の保護観察処遇について[On the 2008 Reform of the Community-Based Supervision System]. *Japanese Journal of Offenders Rehabilitation, 1*, pp. 112-122. Retrieved (April 19th, 2021)from https://www.kouseihogogakkai.jp/pdf/number07.pdf

Mason, B. (2022). The Legitimacy of International Human Rights Law - Addressing the Justification Gap. *BYU Law Review*, pp. 1825-1854. Retrieved (June 7th, 2023)from https://digitalcommons.law.byu.edu/lawreview/vol47/iss6/8

Matsumoto, M. (2022). *更生保護入門 [Introduction to the Rehabilitation System]* (6th ed.). (M. Matsumoto, Ed.) Seibundo.

Ministry of Justice. (2004). 行刑改革会議 [Council for the Criminal Code Reform]. *行刑改革会議提言 [Declaration from the Council for the Criminal Code Reform]*. Japan. Retrieved (June 16th, 2023) from https://www.moj.go.jp/shingi1/kanbou_gyokei_kaigi_index.html

Ministry of Justice. (2007). 更生保護のあり方を考える有識者会議 [Council for the Assessment of the Rehabilitation System]. Japan. Retrieved (June 28th, 2023) from https://www.moj.go.jp/shingi1/kanbou_kouseihogo_index.html

Ministry of Justice. (2021). *再犯防止をめぐる近年の動向 [Recent Tendencies on Crime Prevention].* Tokyo. Retrieved (June 28th, 2023) from https://www.moj.go.jp/content/001341447.pdf

Ministry of Justice of Costa Rica. (2017). *Política Penitenciaria Científica y Humanística [Scientific and Humane Penitentiary Policy].* San José. Retrieved (November 13th, 2022) from https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwi8mOemm4GCAxV1a_UHHS3KAPEQFnoECAkQAQ&url=https%3A%2F%2Fwww.mjp.go.cr%2FDocumento%2FDescargaDIR%2F6388&usg=AOvVaw3zuRg_zIHXUXMWTyKWMI2h&opi=89978449

Ministry of Justice Research Institute. (2021). *犯罪白書 [White Paper on Crime].* Tokyo: Ministry of Justice. Retrieved (November 13th, 2022) from https://hakusyo1.moj.go.jp/jp/68/nfm/mokuji.html

Miura, K. (2010). 更生保護と福祉との連携について [Cooperation Between Rehabilitation and Social Work]. *更生保護と犯罪予防, 152*.

Miyazawa, S. (2016). The politics of increasing punitiveness and the rising populism in Japanese criminal justice policy. *Punishment & Society, 10*(1), pp. 47-77. doi:10.1177/1462474507084197

Mori, N. (2017). *更生保護制度・司法福祉 [The Rehabilitation System and Penal Welfare]* (3rd ed.). (N. Mori, Ed.) Kobundo.

Morita, N. et al. (2019). 更生保護施設における薬物事犯への支援に関する研究 [Research on the Support to Drug Offenders in Rehabilitation Facilities]. *更生保護学研究, 15*, pp. 3-17. Retrieved (June 14th, 2023) from https://www.kouseihogogakkai.jp/pdf/number15-1.pdf

Nakamura, H. (2017). 更生保護就労支援事業所の就労支援員による刑務所出所者等の就労支援プロセスの研究 [Study of Employment Support in Community-Based Supervision Offices]. *Japanese Journal of Offenders Rehabilitation, 11*, pp. 16-28. Retrieved (April 19th, 2021) from https://www.kouseihogogakkai.jp/pdf/number11-1.pdf

Ndubueze, P. (2021, January - June). History, Evolution and Challenges of Cybercriminological Scholarship. (K. Jaishankar, Ed.) *International Journal of Cyber Criminology, 15*(1), pp. 65-78. doi:10.5281/zenodo.47665 3 3

Nelken, D. (2010). *Comparative Criminal Justice: Making Sense of Difference.* SAGE Publications Ltd. doi:10.4135/9781446251546

Office of the United Nations High Commissioner for Human Rights. (2007). *Good Governance Practices for the Protection of Human Rights.* New York and Geneva: United Nations.

Ohta, T. (2012). 刑の一部執行猶予と社会貢献活動──犯罪者の改善更生と再犯防止の視点から──[Split-Sentencing the Perspective of Rehabilitation and Crime Prevention]. *刑法雑誌, 51*(3), pp. 397-415. Retrieved (June 14th, 2023) from https://www.jstage.jst.go.jp/article/jcl/51/3/51_397/_pdf/-char/ja

OIJ. (2017-2022). *Memorias Institucionales [White Paper on Criminality].* San José: Poder Judicial. Retrieved (June 14th, 2023) from https://sitiooij.poder-judicial.go.cr/index.php/apertura/transparencia/estadisticas-policiales/memoria-institucional-oij

Onozaka, H. (1990). 仮釈放制度について [On Parole]. *新潟大学法学会, 22*(3), pp. 89-148. Retrieved (June 14th, 2023) from https://opac.lib.niigata-u.ac.jp/opc/recordID/records/30073?hit=-1&caller=xc-search

Organic Law of the Ministry of Japan [法務省設置法], H.R. of Japan, Law No. 93 of H. (1999).

Organic Law of the Social Adaptation Bureau [Reglamento Orgánico y Operativo de la Dirección General de Adaptación Social], Ministerio de Justicia y Paz, Decree No. 221398-J (1993).

Otsuka, T. et al. (Interview, 2022, July 15).

Pablos, A. (2007). *Criminología* (5th ed.). Madrid: CEC - INPECCP.

Padfield, N. (2007). *Who to Release? Parole, fairness and criminal justice* (1st ed.). (N. Padfield, Ed.) Willan Publishing.

Padfield, N., and Maruna, S. (2006). The revolving door at the prison gate: Exploring the dramatic increase in recalls to prison. *Criminology and Criminal Justice, 6*(3), pp. 329-352. doi:10.1177/1748895806065534

Palmer, J. (2010). *Constitutional Rights of Prisoners.* Matthew Bender & Company.

Penitentiary Code Bill [Ley del Servicio Penitenciario Nacional y de acceso a la justicia para la ejecución de la pena], L.A. of Costa Rica, Bill No. 18867 (2013).

Penitentiary Regulations [Reglamento Técnico del Sistema Penitenciario], L.A. of Costa Rica, Decree No. 33876-J (2007).

Penitentiary Regulations [Reglamento Técnico del Sistema Penitenciario], Ministerio de Justicia y Paz , Decree No. 40849-JP (2018).

Pifferi, M. (2016). *Reinventing Punishment: A Comparative History of Criminology and Penology in the Nineteenth and Twentieth Centuries.* Oxford: Oxford University Press.

Reform of Criminal Registry [Reforma Ley del Registro y Archivos Judiciales], L.A. of Costa Rica, Law No. 9361 (2016).

Regulations on Community-Based Treatment [犯罪をした者及び非行のある少年に対する社会内における処遇に関する規則], Ministry of Justice of Japan, Law No. 28 of H. (2008).

Rehabilitation Law [更生保護法], H.R. of Japan, Law No. 88 of H. (2007).

Resolutions on the Redistribution of Penitentiary Population [Circulares sobre la redistribucion de personas privadas de libertad para reducir el hacinamiento critico del programa institucional], Instituto Nacional de Criminolgía, Orders 5-2015: 8-2016 (2015: 2016).

Resolutions on the Redistribution of Population [Circulares sobre la Redistribución de la Población Penal por la pandemia COVID-19], Instituto Nacional de Criminolgía, Orders 2-2020 and 4-2020 (2020).

Restorative Justice Law [Ley de Justicia Restaurative], L.A. of Costa Rica, Law No. 9582 (2018).

Rodríguez, M. (2011). *Estrategias y Buenas Prácticas para Reducir el Hacinamiento en las Instituciones Penitenciarias [Strategies and Good Practices to Reduce Prison Overcrowding].* UNDOC. Retrieved (June 8th, 2023) from https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwjdqPetvYCCAxXOGIgKHb2aBkcQFnoECBgQAQ&url=https%3A%2F%2Fwww.unodc.org%2Fdocuments%2Fjustice-and-prison-reform%2FHBonOvercrowding%2FUNODC_HB_on_Overcrowding_ESP_web.pdf

Rules on Rights and Duties in the Penitentiary System [Reglamento de Derechos y Deberes de la Población Privada de Libertad], Ministerio de Justicia y Paz, Decree No. 22139-J (1993).

Rusche, G., and Kirchheimer, O. (2017). *Punishment and Social Structure.* NY: Routledge.

Salvatore, R., Aguirre, C., and Joseph, G. (2001). *Crime and Punishment in Latin America: Law and Society Since Colonial Times.* (R. Salvatore, C. Aguirre, and G. Joseph, Eds.) Durham and London: Duke University Press.

Segawa, A. (1986). 仮釈放の現代的動向と課題[Current Movements and Challenges in Parole]. *同志社法學, 38*(3), pp. 1-53. doi:10.14988/pa.2017.0000010056

Shoji, I. (2013). 更生保護と刑の一部の執行猶予 [Rehabilitation and Split-Sentencing]. *Japanese Journal of Offenders Rehabilitation, 3*, pp. 20-35. Retrieved (April 19th, 2021) from https://www.kouseihogogakkai.jp/pdf/number14.pdf

Simmons, B., and Strezhnev, A. (2017). Human Rights and Human Welfare: Looking for a "Dark Side" to International Human RIghts Law. In S. Hopgood, J. Snyder, and L. Vinjamuri, *Human Rights Futures* (pp. 60-87). Cambridge: Cambride University Pres. doi:10.1017/9781108147767.003

Smits, J. (2006). *Elgar Encyclopedia of Comparative Law.* Cheltenham: Edward Elgar Publishing Inc.

Someda, M. (2011). 薬物乱用者処遇における継続的処遇の実現および生活環境調整の充実・強化に関する課題について [Challenges in the Application and Strengthening of Drug Treatment and Environmental Studies for Drug Offenders]. *更生保護と犯罪予防, 153*.

Southern Center for Human Rights. (2015). Parole Handbook: A guide to the Parole Consideration Process for People in Georgia Prison. *4th*. Retrieved (June 28th, 2023) from https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwib4Pm0s4CCAxWOf94KHXSpC9YQFnoECAgQAQ&url=https%3A%2F%2Fpap.georgia.gov%2Fdocuments%2Fparole-handbook&usg=AOvVaw2KQrVf1m4upXE3neMF2Vb-&opi=89978449

Starkweather, D. (1992). The Retributive Theory of "Just Deserts" and Victim Participation in Plea Bargaining. *Indiana Law Journal, 67*(3), pp. 853-878. Retrieved (January 30th, 2023) from https://www.repository.law.indiana.edu/ilj/vol67/iss3/9

Sullivan, D., and Tifft, L. (1998). Criminology as peacemaking: A peace-oriented perspective on crime, punishment and justice that takes into account the needs of all. *The Justice Professional: A Critical Journal of Crime, Law and Socity, 11*(1), pp. 4-34. doi:10.1080/1478601X.1998.9959486

Taguchi, C. (Interview, 2022, June 18).

Taguchi, C. (Interview, 2022, July 22).

Takahashi, Y. (2017). 刑の一部の執行猶予をめぐる議論と実務 [Discussions and Practice on the Split-Sentence System]. *犯罪と刑罰　, 26*, pp. 101-123. Retrieved (June 14th, 2023) from https://cir.nii.ac.jp/crid/1520009408786331904

Takai, A. (2021). Promoting the Implementation of Rehabilitative Environments in the ASEAN Region. *Report of the Fourteenth United Nations Congress on Crime Prevention and Criminal Justice, March 8-9* (pp. 45-55). UNAFEI. Retrieved (May 27th, 2022) from https://www.unafei.or.jp/publications/pdf/RS_No112/No112_09CP_Takai.pdf

Takeuchi, K., and Honjo, T. (2017). *刑罰制度改革の前に考えておくべきこと [Things to think about before a criminal justice system reform].* Japan: Nihon Hyoronsha.

Tamaki, Y. (2012). 更生保護における薬物グループワークの変遷 [Evolution of Group Work for Drug Offenders in Community-Based Programs]. *更生保護学研究, 1*, 159-168. Retrieved (June 14th, 2023) from https://www.kouseihogogakkai.jp/pdf/number10.pdf

The Semi-Institutional Model [Modelo del Nivel de Atención Seminstitucional], Dirección General de Adaptación Social (2020).

Uchida, H. (2015). *更生保護の展開と課題 [Offender Rehabilitation's Development and Challenges].* Houritsu Bunka-sha.

Ueno, S. (Interview, 2023, March 15).

UNAFEI. (2021). Reducing Reoffending: Identifying Risks and Developing Solutions. *Fourteenth United Nations Congress on Crime Prevention and Criminal Justice.* Kyoto. Retrieved (May 13th, 2023) from https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwipmuXLtICCAxXOk1YBHTlrCV0QFnoECAsQAQ&url=https%3A%2F%2Fwww.unafei.or.jp%2Fpublications%2Fpdf%2F14th_Congress%2F01_WholeText.pdf&usg=AOvVaw1PoPihMV6R6RuzsigB4SE5&opi=8

United Nations. (1993). *Commentary on the United Nations Standard Minimum Rules for Non-Custodial Measures.* Retrieved (May 13th, 2023) from https://www.ojp.gov/ncjrs/virtual-library/abstracts/commentary-united-nations-standard-minimum-rules-non-custod

UNODC. (2013). *Prevención de la Reincidencia y la Reintegración Social de Delincuentes [The Prevention of Reoffending and the Social Reintegration of Offenders].* New York: United Nations. Retrieved (July 1st, 2023) from https://www.unodc.org/documents/justice-and-prison-reform/UNODC_SocialReintegration_ESP_LR_final_online_version.p

Van Hoecke, M. (2004). *Epistemology and Methodology of Comparative Law.* (M. Van Hoecke, Ed.) Oxford and Portland: Hart Publishing.

Vega, M. (Interview, 2022, June)

Vega, M. (Interview, 2022, December 14).

Vega, M., and Madrigal, G. (Interview, 2022, December 14:16).

Volunteer Officers Law [保護司法], H.R. of Japan, Law No. 204 of S. (1950).

Ward, T. (2012). *The Rehabilitation of Offenders: Risk Managements and Seeking Good Lives*. 更生保護学研究, 1, pp. 57-76. Retrieved (April 19th, 2021) from https://www.kouseihogogakkai.jp/pdf/number03.pdf

Watanabe, A. (2020). *更生保護施設における薬物事犯者に対する地域支援* [Regional Support for Offenders Undergoing Drug Addiction Treatment in Rehabilitation Facilities]. 法と心理, 20(1), pp. 150-158. doi:10.20792/jjlawpsychology.20.1_150

Watson, A. (2019). *Probation and Volunteers in Japan.* Advancing Corrections Journal, 7, pp. 47-59. Retrieved (February 28th, 2022) from https://globcci.org/wp-content/uploads/2021/04/JapanProbationAC_Journal_2019_7_Article_3.pdf

Weber, T. (1993). Peace Research and Criminology. *Interdisciplinary Peace Research, 5*(2), pp. 109-119. doi:10.1080/14781159308412769

Yamana, J. (2012). *施設内処遇に続く社会内処遇の検討* [Considerations on the Continuity of Penitentiary Treatment]. 東京大学法科大学院ローレビュー, pp. 126-157. Retrieved (June 14th, 2023) from http://www.sllr.j.u-tokyo.ac.jp/07/papers/v07part07(yamana).pdf

Yoshida, C. (2012). *東京保護観察所における更生保護就労支援モデル事業について* [On the Model of Employment Support in the Tokyo Community Supervision Office]. 更生保護と犯罪予防, 154.

Yoshinaka, N. (2006). *Crime Prevention in Japan: The Significance, Scope, and Limits of Environmental Criminology*. Hiroshima Hogaku, 30(2), pp. 23-40. doi:10.15027/20058

Yoshinaka, N. (2008). 保護観察の犯罪予防機能 [The Crime Preventing Function of Community-based Supervision]. *犯罪と非行, 158*, 77-101.

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