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Community-Based Rehabilitation of Offenders: An Overview of Probation and Parole in Ethiopia

Shewit Kahsay*

Abstract

States have nowadays realized that it is imperative to devise community based rehabilitation of offenders (probation and parole system) in dealing with offenders as most are now faced with the problem of recidivism and prison congestion. This article explores the gap between the theory and practice of probation and parole systems in Ethiopia based on primary sources, comparative insights and analysis of relevant laws. The article shows that while there are stipulated rules available in Ethiopia for release of offenders on probation and parole, these remain meaningless in the absence of organs meant to supervise parolees and probationers. It reveals the fact that the probation and parole systems have been a neglected area of criminal justice system in Ethiopia. It is noted that while the law allows for the use of probation, there is no adequate institutional facilities to implement it.

Key terms: *Community-Based Rehabilitation, Probation, Parole, Correctional treatment*

Introduction

In the past, all types of penalties were executed after they were imposed because execution is a natural step that comes after the imposition of criminal punishment.¹But; nowadays, it is believed that at times the interest of justice may require resorting to different measures, that is, suspension instead of execution². The principal justification behind suspension of penalties is the need to rehabilitate criminals. Different States have nowadays realized that it is imperative to devise

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¹UN Office on Drugs and Crime, *Alternatives to Incarceration Criminal Custodial and Non-Custodial Measures* (Criminal Justice Assessment Toolkit, New York 2006), p.1.

²Penalties may be suspended after their execution has commenced and part thereof is served or before commencement of execution.

non-custodial measures in dealing with offenders as most legal systems are nowadays faced with the problem of recidivism and prison congestion.³ Prison populations around the world are increasing, placing enormous financial burdens on governments. In the meantime, there is growing recognition that imprisonment does not achieve some of its most important stated objectives, as well as being harmful to offenders, to their families and in the long-term, to the community.⁴

The goal of rehabilitation is to address the underlying factors that led to criminal behavior and by so doing, reducing the likelihood of re-offending. However, it is precisely this objective that is generally not being met by imprisonment.⁵ On the contrary, evidence shows that prisons are further pushing individuals to criminal behavior by leading to re-offending and a cycle of release and imprisonment. This does nothing to reduce overcrowding in prisons or to build safer communities.⁶ Many states have now a recourse to one of non-custodial measures to community-based rehabilitation.⁷

Probation and parole play vital and unique roles in the criminal justice system. Through court advice, probation and parole programs engaged in community-based rehabilitation reduce both re-offending and the harm it causes. Research supports not only the overall effectiveness and value of community-based penalties but also how probation and parole officers can work more effectively to reduce crime in the

³See, Doris Mackenzie, *Sentencing and Corrections in the 21st Century: Setting the Stage for the Future* (University of Maryland, 2001), p.19. < <https://www.ncjrs.gov/pdffiles1/nij/189106-2.pdf> > accessed on 16 June 2017

⁴UNDOC, Addressing the global prison crisis Strategy 2015-2017 <https://www.unodc.org/documents/justice-and-prison-reform/UNODC_Strategy_on_Addressing_the_Global_Prison_Crisis.pdf> accessed on 16 June 2017

⁵ Matt Loffmann and Faye Morten, *Investigating Alternatives to Imprisonment Within Council of Europe Member States*, (Quaker Council for European Affairs 2010), pp. 3-7.

⁶Matthew Demichele, *Probation and Parole's Growing Caseloads and Workload Allocation: Strategies for Managerial Decision Making* (The American Probation and Parole Association 2007), pp.5-6.

⁷Penal Reform International, *The Probation and Parole System in Pakistan: Assessment and Recommendations for Reform* 2012, pp. 3-4.

community.⁸ The fundamental roles of human relationships and social support remain central to their work.

Most Sub-Saharan Africa countries, including Ethiopia, have overcrowded prisons.⁹ This is partly attributed to existing legislation and sentencing policies that overemphasize imprisonment as a major mode of punishment. In Ethiopia, community based rehabilitation of offenders has not yet received significant research. Existing research, is either limited in terms of perspective or scope. This has resulted in scarce literature, low practice and intervention on the area. Therefore, this article contributes as one of the baseline research and potentially serves as a guide to intervention. This amounts to the rationale for the researcher to study and contribute for the existing literature in the area of the research and this is conducted based on legislative analysis, particularly the Criminal Code of 2004 and analysis of relevant literature.

This article sets out to examine the community based rehabilitation of offenders and specifically gives an overview of probation and parole in Ethiopia. Accordingly, it is organized as follows. First, it provides preliminary notes on community based rehabilitation offenders. Next, it assesses the Ethiopian legal framework on probation and parole. It then deals with reflection on the legal and institutional frameworks relating to probation and parole in Ethiopia. Finally, it ends with concluding remarks.

⁸John Worrall and others, *Does Probation Work? An Analysis of the Relationship between Caseloads and Crime Rates in California Counties* (CICG Research Brief, California Institute for County Government 2001), p.1-4

⁹Andargachew Tesfaye, *The Crime Problem and its Correction* (vol. 2, Addis Ababa 2004), p. 321.

1. Philosophical and Theoretical Explanations of Community Based-Rehabilitation Offenders

1.1 Community-Based Rehabilitation of Offenders: The Concept

Community-based rehabilitation is a broad concept which includes different kinds of non-custodial or institutional programs for criminal offenders.¹⁰ The objective of community based rehabilitation is to sanction and control criminals without confining them. This allows offenders to maintain existing contacts and establish new ones in the community.¹¹ Another objective of community-based corrections is community protection. Controlling offenders, while they remain in the community is an important objective aimed at protecting the society from further harm¹². Community-based rehabilitation is a re-integrative philosophy of corrections. It is a court ordered period of correctional supervision in the community. There are various types of community based corrections. However, probation and parole are the concerns of this article.

1.2 Probation

The word 'probation' derives from the Latin *probare*, meaning to test or to prove.¹³ Thus, a person on probation has his/her punishment suspended by the court on the understanding that he/she will try to reform; if not, further sanctions will be applied. The word has several definitions and all are closely related. Black's Law Dictionary defines it as: 'the sentence imposed for commission of crime whereby a convicted criminal offender is released into the community under the supervision

¹⁰Ibid, p. 295.

¹¹This objective is also known as reintegration.

¹² Various control mechanisms may be applied to impose restriction on the offender's behavior condition like demands that offender to attend school, secure job and avoidance undesirable behaviors etc...

¹³ Abubakri Yekini, *Probation as a Non-Custodial Measure in Nigeria: Making a Case for Adult Probation Service* (African Journal of Criminology and Justice Studies: AJCJS, vol.7, #s1 &2 2013), p.102. <https://papers.ssrn.com/sol3/Data_Integrity_Notice.cfm?abid=2370858> accessed 23 June 2017

of a probation officer in lieu of incarceration.’¹⁴ The US Department of Correctional Services also defined it as: ‘...the procedure under which a defendant, against whom a judgment of conviction of a public offence has been or may be entered, is released by the court subject to supervision by a resident of this state or by the judicial district department of correctional services.’¹⁵

When we talk of sentencing, one thing that comes to our mind is the person found guilty of the violation of the criminal law. At this juncture, it is necessary to keep in mind that probation remains punishment. The whole idea of probation is to reabsorb the offender into the community for rehabilitation even while being punished for his crime. It is based on the belief that encouragement must be given to the criminal not only to be a law-abiding citizen but also to contribute to the development of the local community and society.¹⁶ In this regard, they may be required to involve in different community service activities during this period.

It is safe to conclude, therefore, that probation means a sentencing option whereby the court pronounces judgment and imposes a sentence and then suspends execution of the sentence subject to the defendant’s compliance with conditions set by the court as a requirement of the suspended sentence. The conceptual meanings of the combined definitions are similar. Probation is a way of dealing with offenders without imprisoning them; this means that the court releases a defendant found guilty of a crime without imprisonment subject to conditions imposed by the court. In terms of scope and content, probation is essentially a process or a procedural step taken in the course of administering criminal justice. Probation is not a right but a privilege. It is a status the judge may impose upon an offender who has been found guilty.

¹⁴ Henry Black (ed.), *Black’s Law Dictionary* (6th edn., St. Paul, Minn, West Publishing Co. 1994), p. 1202.

¹⁵ Andargachew, *The Crime Problem*, fn 9, p. 309.

¹⁶ Malcolm Pearse, *The Effectiveness of Probation and Parole Supervision in New South Wales* (Judicial Officers Bulletin, v.24, no.7, 2012), pp.1-6.

In the U.S criminal justice system, after hearing the arguments of the prosecution and the defense, if the court feels the case is suited to probation, it then orders the probation officer to submit a Social Investigation Report (SIR) that includes information about the offender's character, antecedents, commission and nature of offence, home surroundings and other circumstances. The condition for release on probation is either issued as a special statute or incorporated in penal law. While giving the decision to release on probation, the court puts certain conditions to be complied by the convicted. However, whatever conditions are attached to probation must be reasonable.¹⁷

The first condition stipulated by the judge is not to commit crimes.¹⁸ The judge may also set the conditions of probation under which convicted offenders must live. Probationers are subject to the conditions established by the court for the probation order, and any additional reasonable conditions, which the court, having regard to the circumstances of each case may impose to promote rehabilitation of the offenders or protection of the community. Conditions may include, but are not limited to, residence, abstention from drugs and alcohol, psychiatric therapy, counseling classes, non-possession of firearms, community services etc, and other matters the court, having regard to the peculiar circumstances of each case, considers necessary for preventing a repetition of the same offence or of the commission of other offences.¹⁹ A court may direct an offender to attend a special program or to seek help for drug, alcohol or mental health problems as a condition of the probation order. Offenders may also be required to live at a probation hostel for part of the order if the sentencing judge feels they need a greater degree of supervision.²⁰

¹⁷Andargachew, *The Crime Problem*, fn 9, p.311.

¹⁸Nathan James, *Offender Reentry: Correctional Statistics, Reintegration into the Community and Recidivism* (Congressional Research Service, 2015), pp.4-5.

¹⁹ *Ibid* pp. 11-17.

²⁰ *Ibid*

Probation officers are assigned for this purpose to follow up on the conditions. On the other hand, the offender is also expected to see his or her probation officer regularly, aimed at making the offender take positive steps to avoid the folly of re-offending as to warrant revocation of probation. The probation officer or service may also refer offenders to other agencies for professional help with housing, employment, drug or alcohol problems or mental health needs. The probation officer has several mandates. They advise the offender, keep a record of their work and submit reports to the court when alleged violations occur. Furthermore, they coordinate their work with other social welfare agencies, which offer services of a corrective nature operating in the area to which they are assigned. In countries like the US, there is the wearing of a Global Positioning System (GPS)²¹ apparatus as condition for probation so that it would be easy to keep track of the movement of probationers at any time.

However, probation may be revoked due to two main reasons.²² A probationer can be removed from probation if she fails to observe the technical conditions of probation. This includes leaving the jurisdiction without permission and restricting from undesired behavior. If probation is revoked for a technical condition, the offender can be sent to prison for incarceration for the term for which he was initially sentenced. In case of the revocation for a new crime, the offender may have to serve for both the old and the new crime.

1.3 Parole

Probation and parole are used interchangeably. However, there exists a line of distinction between the two concepts. Parole is a conditional release and refers to the suspension of a penalty which is under execution subject to certain limitations

²¹*Probation and Parole: A Primer for Law Enforcement Officers* <<http://www.theiacp.org/Portals/0/pdfs/Probation-and-Parole.pdf>> pp. 4-6.

²²Andargachew, *The Crime Problem*, fn 9, p. 312.

(conditions).²³ This implies that one's a person placed in a jail for the crime he has committed it does not mean that is the end of his/her everything. There is still a possibility to interrupt the enforcement of the penalty and release the prisoner on condition provided that certain requirements exist. The parolee is subject to future confinement for the unserved portion of the sentence in the event that he violates the provisions of parole.²⁴ Probation requires the offender to attend supervision programs instead of imprisonment. The distinguishing factor between probation and parole is that a probationer is not usually put in a correctional institution and does not serve any part of his sentence in such institution. On the other hand, parole is a release of an offender to serve the reminder of their sentence in the community. But, it is indisputable that probation and parole are two different non-custodial measures.

2. Probation and Parole Systems in Ethiopia

2.1 General Overview

Punishment is designed to meet one or more of the basic goals of the criminal justice system.²⁵ There is, however, disagreement on what these goals actually are. Generally speaking, retribution, deterrence, incapacitation, and rehabilitation are identified as some of them.²⁶ Regardless of the different justifications scholars offer to justify the use of punishment, reliance on any single principle is no more acceptable.²⁷ In Ethiopia, the Criminal Code of 2004 mentions deterrence,

²³Penal Reform International, fn 7, p.12.

²⁴Andargachew, *The Crime Problem*, fn 9, pp. 313-316.

²⁵Dejene Girma, 'The Relevance of Hobbesian Principles of Punishment in Today's World in Light of the Ethiopian Criminal System' in *Jimma University Journal of Law* (vol. 4 no. 1, 2012), pp. 35-62.

²⁶Ibid

²⁷ Different kinds of argument logically require certain kinds of evidence: for example, arguments based on the effectiveness of rehabilitation require empirical evidence of the changes it produces in offending behavior whilst arguments based on the rights of offenders require demonstrations of consistency with generally accepted principles concerning human rights. Such demonstrations belong to a logically different category of evidence to which no amount of reconviction-counting could be relevant. This article, in identifying different kinds of justification advanced for rehabilitation, is also concerned with the kinds of evidence or argument logically required by each.

prevention, reformation and rehabilitation as the basic principles to justify punishment.²⁸ Those purposes are also available in provisions relating to different types of punishments.²⁹ The Code recognizes different forms of penalties. Thus, the court can use them, as may be appropriate, to serve the purposes the criminal law has in mind — the protection of society.³⁰ Probation and parole are recognized under the Ethiopian criminal justice system. Thus, the next part of the article attempts to assess the legal framework governing probation and parole in Ethiopia.

2.2 Appraisal of the Ethiopian Legal Framework on Probation and Parole

2.2.1 Probation

The Ethiopian Criminal Code recognizes the idea of probation whereby the court is given discretionary power to order probation having regard to all the circumstances of the case and if it believes that it will promote the reform and reinstatement of the criminal.³¹ Though probation is not practiced³², the 1957 penal code also provided

(Peter Raynor and Gwen Robinson, *Why Help Offenders? Arguments for Rehabilitation as a Penal Strategy* (European Journal of Probation vol. 1, no. 1, 2009), P 3 – 20. These justifications are not primarily concerned with evidence (what *can* be done) but with the obligations and duties of individuals, societies or communities (what *ought* to be done). Understood in this way, probation services can be seen as not only central to the rehabilitation of offenders but also as playing a part in the development and maintenance of societies which prioritize human welfare and social inclusion. (Ibid.)

²⁸ See *Criminal Code of The Federal Democratic Republic of Ethiopia* (hereafter Criminal Code of Ethiopia), Proclamation No.414/2004, Art 1.

²⁹ Ibid, Arts 88,107,108 and 190.

³⁰ Of course, the legislator can establish this scale only in an abstract way; the law, because of its general application, cannot take into account all of the particular circumstance of individual offenders and giving the judiciary the discretion to decide which principle to use to fix the sentence of a particular criminal. For example, article 87 of the Criminal Code states, “[t]he penalties and measures provided by this Code must be applied in accordance with the spirit of this Code and so as to achieve the purpose it has in view (Art 1).” it is, is made by the judge. By individualization of the penalty, the judge, first, differentiates the particular offender from other offenders in personality, character, socio cultural background, the motivations of his crime, and his particular possibilities for reform or recidivism, and secondly, determines which, among a range of punitive, corrective psychiatric and social measures, is best adapted to solve the special set of problems presented by that offender in such a way as materially to reduce the probability of his committing crime in the future.

³¹ *Criminal Code of Ethiopia*, fn 28, Art 190.

³² Andargachew, *The Crime Problem*, fn 9, pp.313-138.

the conditions under which offenders may be released on probation.³³ However the provision was not detailed enough to show all the necessary conditions that need to be imposed.³⁴

The 2004 Criminal code has provided relatively detailed provisions regarding probation. This has provided conditions under which offenders may be released on probation. Probation is not extended to all types of offenders.³⁵ The personal profile, the needs of the offender and the type of offence are taken into consideration. Accordingly, the court may place a convicted criminal on probation if he\she has not been convicted previously, is not a danger to society, and when his\her crime is punishable with a fine, compulsory labor, or simple imprisonment for not more than three years.³⁶ Moreover, the convicted offender is required to enter into an undertaking to be of good conduct, to meet the conditions or rules of conduct attached to the probation, to repair the damage caused by the crime or to pay compensation to the injured person in order to be placed under probation.³⁷ Upon granting probation, the court shall place the offender under the supervision of a protector, guardian, or probation officer who shall keep in touch with the probationer and reports his situation.³⁸ When imposing a suspended sentence, the judge has considerable freedom in fixing the term of probation, usually, extending from 6 months to 5 years depending on the nature and seriousness of the crime committed. In determining the length of the probation, the court determines what period is most likely to provide maximum opportunity for the rehabilitation of the offender, to allow enough time to determine whether or not rehabilitation has been

³³ *Penal Code of the Empire of Ethiopia Proclamation 158/1957*, Art 202.

³⁴ *Ibid*, 207

³⁵ See, *Criminal Code of Ethiopia*, fn 28, Art 194 (1)(2) provided that the court may disallow probation where the offender has previously undergone a sentence of rigorous imprisonment or simple imprisonment exceeding three years and he\she is sentenced again to one of these penalties and where the criminal is sentenced to rigorous imprisonment exceeding five years for the crime he is now tried.

³⁶ *Ibid*. Art 191.

³⁷ *Ibid*. Art 197 and 198.

³⁸ *Ibid*. Art 199.

successful, and to protect the community from further crimes by the offender and others.

The offender is subject to different conditions.³⁹ Some of these conditions and the factors to be taken into consideration are stated in the Criminal Code: prohibiting the criminal from taking alcohol, consorting with certain people, not leaving a given place, and reporting to the appropriate authorities. Thus, if the criminal has to benefit from the suspension, he must observe these conditions if attached to his probation. Nonetheless, the court has a discretionary power to revoke the probation if the probationer infringes on one of the rules of conduct or conditions attached to it, or commits a new offense during the period of probation.⁴⁰ Revocation of the suspended sentence results in the execution of the sentence already pronounced. But, before the revocation is ordered, the court may warn him or impose fresh rules of conduct.⁴¹ However, if the probationer persists with his misconduct or commits another offence, then the court shall suspend the sentence and impose the previous penalty or decide on another penalty if a new offence has been committed.⁴² The Criminal Code provides that the court granting probation and parole,⁴³ if it is necessary, place the criminal under the supervision of a protector, guardian, probation officer or a charitable organization in general.⁴⁴ On the other hand, the protector or supervising officer is to keep in touch with the probationer; he may visit him at home or at his place of work, make arrangements for his leisure hours, give him guidance and facilitate to the best of his ability his readjustment in life and his reform.

³⁹ Ibid. 194(4).

⁴⁰ Ibid. Art 200.

⁴¹ Ibid. Art 200 (1).

⁴² Ibid. Para.1.

⁴³ Ibid. Art 199.

⁴⁴ See, Art 208.

2.2.2 Parole

The Ethiopian criminal law also recognizes parole whereby a prisoner is conditionally released before the completion of the term of imprisonment.⁴⁵ Parole may be granted by the court after receiving recommendations from prison administration and taking into consideration the behavioral reform of the criminal; this process helps the offender to early join and reintegrate with his\her families and the community. The Criminal Code in Art 202 states the requirements that must be fulfilled to allow parole which include: the prisoner has to serve two-thirds of a sentence of imprisonment or twenty years in case of life imprisonment; the prisoner or the management of the institution must submit a petition and recommendation respectively; the criminal must present tangible proof of behavioral reform during the period of imprisonment; the prisoner must repair or agree with the victim or his\her families to repair the harm caused; and that the character of the prisoner warrants the assumption that he\she will be of good conduct when released⁴⁶and not be a recidivist.⁴⁷

Similar to probation, parole is subject to certain conditions⁴⁸ the non-compliance of which may lead to the revocation of the parole. In that case, the prisoner is sent back to prison to serve the remainder of the sentence.⁴⁹ If a court permits the conditional release of the prisoner, it should fix the period for which the probation is to last. Normally, the period of probation should extend from two to five years. However, if the probationer is serving a sentence of life imprisonment, the period

⁴⁵ Ibid. Art 201.

⁴⁶ Ibid. Art 202.

⁴⁷ Ibid. Art 113 and 202.

⁴⁸ The rules of conduct expected from the parole are more or less the same as for probationer. According to Andargachew, the provision of rule of law was hardly used. No adult prisoners were released on supervised parole. However, on the basis of the prisons proclamation the granting of pardon and remissions to prisoners was widely practiced.

⁴⁹ See *Criminal Code of Ethiopia*, fn 28, Art 206.

shall extend from five to seven years.⁵⁰ Further, criteria are also provided in the Treatment of Federal Prisoners Council of Ministers Regulation.⁵¹

3.3 Some Reflections on Legal and Institutional Frameworks relating to probation and parole in Ethiopia

Theoretically, probation does exist under the Ethiopian law but only as far as the provisions of the Criminal Code relating to it apply. Though the Criminal Code provides the *organization* and the duties of the *probation commissions* and probation officers to be *regulated by law*,⁵² there are no laws, procedures or operating guidelines developed to facilitate this. As it is clear from the article of the Criminal Code, the Ethiopian law clearly recognizes the need for separate organization which deals with probation. Even the status of the institution is indicated in the terminologies employed by this sub article: '*organization*' and the '*probation commissions*'. Nonetheless, despite these legal provisions, there is no organ established, to date, to supervise parolees and probationers.

As discussed above, the role of probation and parole officer is crucial. Probation officer has been assigned an important role in the whole process. For example, as discussed above in the US, probation officer prepares the SIR that includes information about an offender's character, the background, commission and nature of offence, home surroundings and other circumstances. SIRs are prepared to assist the courts to arrive at an appropriate decision. Likewise, in Ethiopia, if the court believed that previous enquiry is necessary for the purpose of deciding whether suspension should be granted, it then orders enquiry to be made by supervisor or a

⁵⁰ *Ibid.* Art 204.

⁵¹ *Council of Ministers Regulations on Treatment of Federal Prisoners No. 138/ 2007*, Art 46 provides that Prisoners eligible for parole request must meet certain preconditions: behaving well during imprisonment, is believed to be commendable after release, has settled all payments required under a court decision, has already served two thirds of the term of his sentence or 20 years of his life sentence, and has positive inclination towards social life.

⁵² *Criminal Code of Ethiopia*, fn 28, Art 199(2).

reliable welfare worker or an officer of a charitable organization.⁵³ However, this purpose could not be achieved in the absence of any specified rules and institutional set up.

Further, taking into consideration the criminogenic needs of offenders, the role of probation officers is substantial.⁵⁴ The probation officer has the prerogative to help, to follow up the conditions stipulated by the court and make reports to the court when alleged violations occur. Similar roles are given to probation officers in Ethiopia. However, it remains paper value as there is no organ established to play those roles and legislations are not available about the structure and organization. In other words, the rehabilitation objective of probation could not be achieved. Rules of conduct or conditions stipulated by the court are also for vain. Persons under probation are left unrecognized even if they violate those conditions. The role stipulated by the criminal law to Probation officers is given to neither of the criminal justice segments.⁵⁵ This is a grey area that needs to be further explored and taken up. Federal Attorney General Establishment Proclamation is also silent about this issue.⁵⁶

As regarding to parole, in cases where a penalty or measure entails loss of liberty, the Criminal Code imposed anticipatory conditional release may be awarded by way of parole. Once released on parole, the concerned parole officer is to supervise, monitor and facilitate rehabilitation of the offender in the community. In practice, however, similar to probation, there is no organ established with this mandate. To this effect due to lack of parole supervision, we do not know what

⁵³ Ibid Art 195.

⁵⁴ See *Probation and Parole* fn 21. Probation and parole officers must perform a dual role, being a social worker and a law enforcement officer as they advise offenders, encourage behavior change, and take steps to ensure both short-term and long-term public safety. Probation and parole officers may also work closely with crime victims using the principles of restorative justice.

⁵⁵ The segment refers to the four components of criminal justice administration: Police, Public Prosecutor, Court and Correctional Administration.

⁵⁶ *Federal Attorney General Establishment Proclamation* No. 943/2016.

percent of those released on parole relapsed back into criminality and returned to prison recidivists.

Like probation, the Criminal Code provides that detailed conditions be regulated in law concerning the enforcement of penalties and orders dealing with this matter. In this regard, though the Regulation of Council of Ministers on Treatment of Federal Prisoners has covered some issues about parole, it is limited in its scope. This regulation mainly deals with how convicted offenders are selected for parole and duties and responsibilities of the board established for this purpose. Even though the law provides appropriate rules of conduct to be observed by the parolee and circumstances parole to be revoked, due to the absence institutional arrangements, it could not be practiced. Unless that person commits a crime and recognized by the police, there is no possibility to observe violation of those conditions.

The Criminal Code offers that supervision can be carried out by the association or groups of a public or private character, which devote their activity thereto, with the assistance and under the control of the State. However, the non-existence of clear procedures and guidelines make it impractical. Like the probation systems, neither of criminal justice components is entrusted with mandate. The Criminal Code clearly provides that this mandate must not be entrusted to police authorities, *unless otherwise necessary*.⁵⁷ Therefore, it is clear from this to understand that there is no organized body to deal with parole issues.

There are also arguments raised regarding the application of probation and parole. Though there is no comprehensive study, Ethiopian judges tend to adopt an apparently punitive and retributive approach despite existing legal provisions that encourage the use of probation and other noncustodial measures.⁵⁸ With respect to probation, it appears that Ethiopian judges are not disposed to the usage of

⁵⁷ *Criminal Code of Ethiopia*, fn 28, Art 210(1) Parag. 3.

⁵⁸ Kelali Kiros, *The Bail Justice in Ethiopia: Challenges of its Administration* (LLM Thesis, Addis Ababa University 2011), p. 87.

probation orders. More often than not, the courts usually close their eyes to alternative disposition methods. This is regardless of the fact that the courts are certain that the offenders deserve it. As it can be observed from the data of statistics, the use of probation was justifiable and prisoners convicted for short period of time were much larger in number than those for long period.⁵⁹ Out of these prisoners was a large majority believed to be the first offenders and could have been released on probation. Yet various studies have shown that short term imprisonment has little value in terms of its correctional effectiveness. One of the consequences of short-term imprisonment is that it reduces the chance for classification and segregation of hardened criminals with the limited facilities. Furthermore, short-term commitment does not allow for constructive training and rehabilitation since their duration is limited. Criminologists also argued that short term imprisonment is likely to increase recidivism because the exposures prisoners get form the contacts with more hardened criminals.⁶⁰ As the size of those short-term prisoners is substantial in number, this leads the country is to lose a huge amount of money to finance inmates who would have been on probation. The writer of this article contends that had there been a systematic probation and parole than indiscriminately putting offenders in prison, such kind of costs would not be.

Evidence shows probation and parole are cost effective by saving criminal justice administration costs of financing inmates. As Andargachew said, it is advantageous to use probation also for the government because, in addition to reducing costs and the over crowdedness of prisons, the offender will not be as much as burden as he would be if were committed to prison. According to him, if the necessary conditions were provided such as office facilities, fairly supportive community⁶¹

⁵⁹ See, FDRE, Statistical Abstract, Central Statistical Agency, 2012.

⁶⁰ Andargachew, *The Crime Problem*, fn 9, p. 293.

⁶¹ In this regard, Andargachew expressed community support can be acquired through education and communication. If the values of probation and parole are properly explained through the media and in community meeting people are likely to cooperate. The success of probation and parole is highly dependent on the community support. Further, the writer believes that other are few attempts

and adequate transportation and the necessary legislative backup etc, a single probation officer can supervise up to 50 probationers.

It is also important to consider the possible adverse consequences of imprisonment on the accused personal and family life. Imprisonment has many adverse impacts on the offender as well as his families which the government of Ethiopia seems to underestimate or else miscalculate. Release on probation and parole is advantageous both to the offender and the community. The offender will remain within the community and continue to support his family. He will also be saved from the dehumanizing prison conditions. By the same token, the fact that a person is in prison may mean his job security is endangered. Though we do not have comprehensive statistical information on how many of the persons offenders were employed, it is not difficult to guess that at least such persons would have contributed something to sustain themselves. There are all rounded problems accruing on the family and children and this is an outcome of a wrong policy prevailing in Ethiopia. This is true in light of the fact that it is possible to have probation and parole system that have a very important role in ameliorating the costs of prison administration.

One of the serious challenges of prison administration in Ethiopia is prison overcrowding. The prison population rate of Ethiopia is reported to be one of the highest in Eastern Africa.⁶² Prison conditions are very poor across Ethiopia.⁶³Prison facilitates have not been expanding with increasing in

by the government to introduce community policing in the country, it is possible this as possible resource for parole and probation.

⁶² International Center for Prison Studies

<http://www.prisonstudies.org/info/worldbrief/wpb_country.php?country=19> accessed on 30 April 2016.

⁶³ See, Addisu Gulilat, *The Human Rights of Detained Persons in Ethiopia: Case study in Addis Ababa* (LLM Thesis, Addis Ababa University 2012), p.1-4. Overpopulation, prolonged detention of under-trial prisoners, unhygienic living conditions are characteristics of Ethiopian prisons.

incarceration rates.⁶⁴ As a result, prisons are overcrowded.⁶⁵ Therefore, using probation and parole is vital in minimizing this problem.

The impact of weak probation and parole administration in Ethiopia is not limited to overcrowding challenges. It also extends to the problems as a result of overcrowdings. Recent research carried out in Ethiopian prisons revealed that the estimated prevalence of pulmonary tuberculosis was about eight times higher than that of the community.⁶⁶ This result confirms that probation would be better employed to rehabilitate these offenders than imprisonment as certain extenuating factors are responsible for their conduct. However, no one seems to be looking in that direction. In this regard, we are facing many problems while we can still have a probation and parole system which could minimize such risks by allowing the offenders to be released through an objective and systematic analysis. Thus, the Criminal Code which allows probation and parole does not have a solid basis in light of the current condition of the criminal justice system.

Concluding Remarks

To sum up, the article concludes that in Ethiopia there is law that permits for the application of probation and parole. Nonetheless, despite the legal provision, there is no organ established, to date, to supervise parolees and probationers and to report to the court as to the status of the offender; it is imperative that there is a need to close the gap between theory and practice. A probation and parole department should be established all over the country. This will realize the benefits that could be obtained from the services. There is also the need to have detailed

⁶⁴ See, the increasing in the number of criminals that were referred to various prisons could be seen from FDRE, Statistical Abstract, Central Statistical Agency

⁶⁵ Official statistics are not only scanty but also not up-to-date, the only a valuable information, therefore, are occasional reports, some national statistics and reports of some human rights organizations regarding the number of prisons and size of inmates.

⁶⁶Zerihun Zerdo and others, *Prevalence of Pulmonary Tuberculosis and Associated Risk Factors in Prisons of Gamo Goffa Zone, South Ethiopia: A Cross-Sectional Study (American Journal of Health Research, vol. 2, no. 5, 2014), pp. 291-297.*

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laws on probation and parole that deal with structure and functions in order to address the situation and go with the modern trend in other jurisdictions as highlighted above. Further, judges should greatly use provisions for probationary sentences. In other words, the prisoners who qualify for probation or parole should be released on probation. This may be helpful in reducing the cost of prisons and other problems in relation to it.