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Parole and release from prison in Finland

Parole in Ireland – The Way Forward
Experience from other Jurisdictions

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1 Introduction

Terminological note:

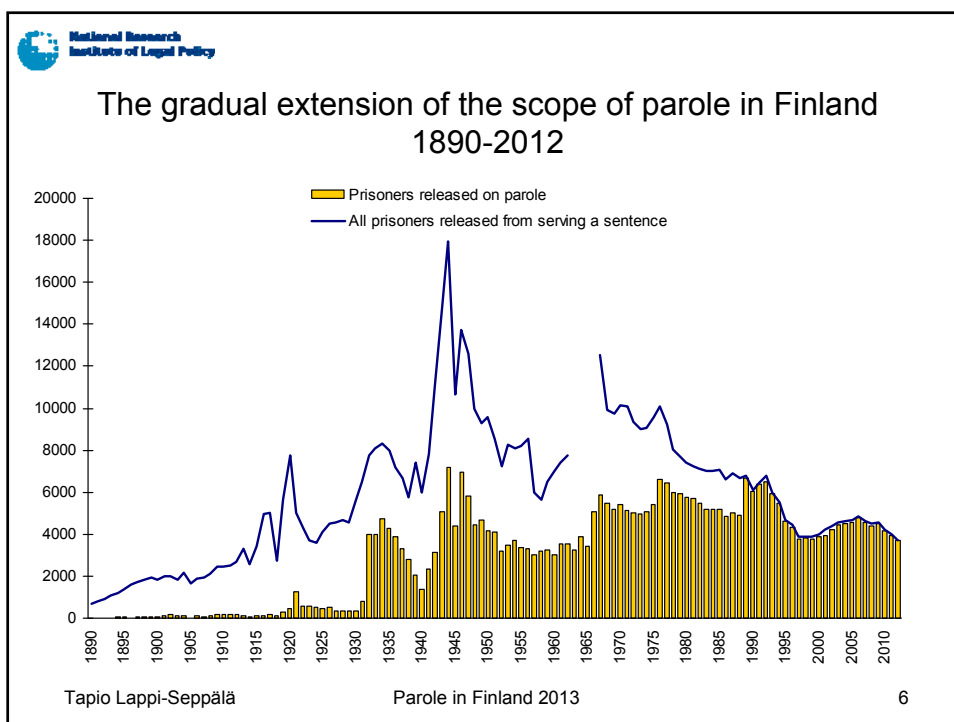
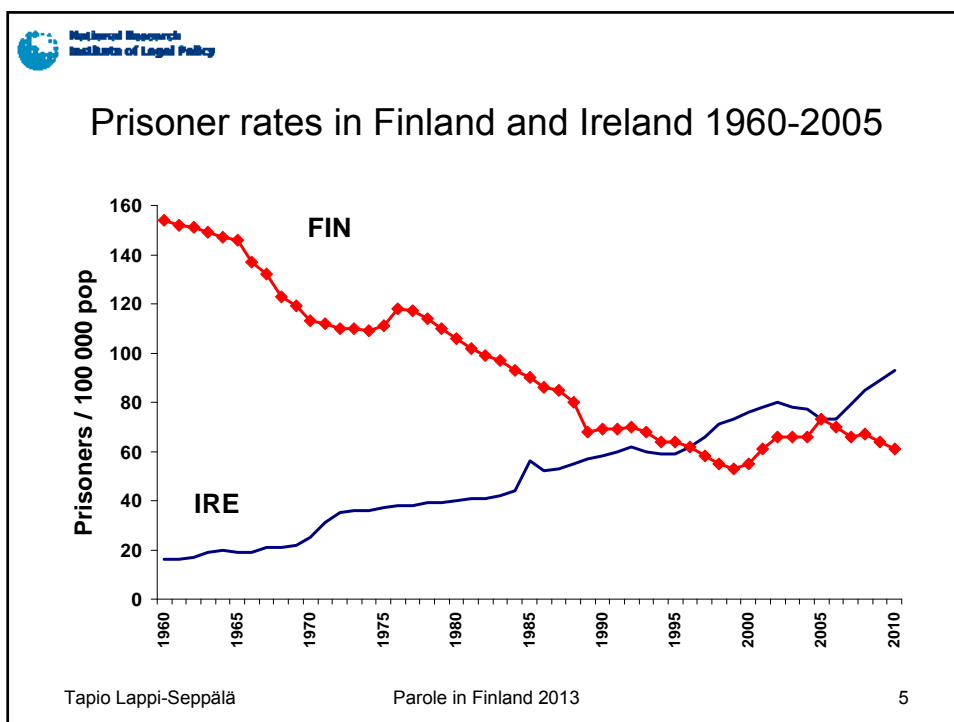
“Parole” in this paper = technical term that refers to
different forms of early release, usually conditional
release and release to supervised probationary liberty.
Each form is discussed separately.

Changing functions of parole

- As a means ...
 - for providing support and after-care
 - of control after release
 - for the controlling of prisoner rates
- Changes in the aims and justifications over time in Finland
 - ->1960/70s: control and care
 - 1970s/80s: prison reduction
 - 1990s->: prison reduction, support and control

Major changes in the Finnish Law

- Extending the scope of parole 1966-1989
 - Minimum time for parole reduced
 - 1966 6->4 mths,
 - 1975 4->3 mths,
 - 1989 3mths->14 days
 - Adoption of fixed release rules: From the mid 1970s
 - A general fall of prisoner rates from 150 (1960s) to 60 (2000s)
- New prison Act 2006
 - More structured stepwise enforcement process towards more free conditions



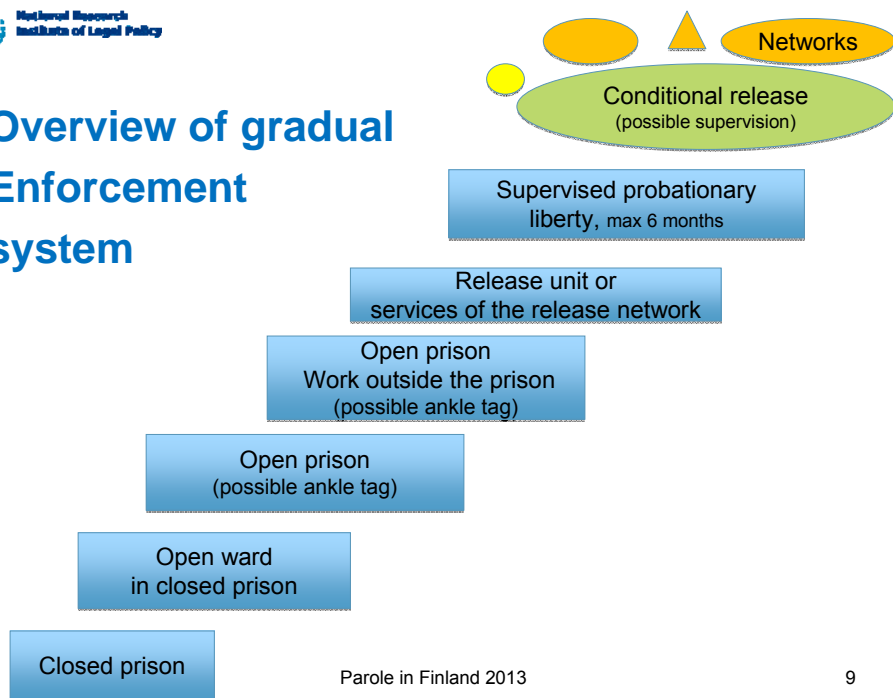
Overview of present release system

- Regular parole (conditional release)
 - Semi-automatic release for all (99%)
 - 3 categories as regards to presumptive release rules (based on age and criminal history)
 - Supervision according to discretion
- Restrictions
 - High risk repeat violent offenders
- Extensions
 - "Supervised probationary liberty"

Main characteristics of the prison process

- Stepwise and gradual
 - Closed prison->prison leaves->open prison->parole
- Structured and planned
 - Sentence plan->release plan->supervision plan
- Transparent
 - Decision criteria defined in law
- Predictable
 - Prisoner knows in advance his/her release day

Overview of gradual Enforcement system



2 Release forms and release process

Preparations for release

- Sentence plan:
 - set up by a Regional Assessment Unit
 - includes planning on supervised probationary freedom, conditional release and on granting a permission of leave
 - Risk & Need assessment for 15-20 % of prisoners
- Release plan:
 - set up by the prison well in advance of the probable release date (at latest 6 months before the release)
 - preconditions of the prisoner to cope in freedom as well as his or her needs for services shall be assessed
- Supervision plan
 - Contents: contact-meetings; plans related to housing, work, education, studies, finances; programs and tasks; sanctions for breaches of license
 - Prepared for 85 % of prisoners released under supervision

Conditional release (regular parole)

- Adults
 - “First offenders” after serving $\frac{1}{2}$
 - Not served a prison term in 3 years prior the commission of the offense
 - Around 1/3 of prisoners
 - Others after serving $\frac{2}{3}$
 - Prisoners who have served a prison term 3 years prior the offense
- Juveniles (offenders under 21 at the time of the offense)
 - First offenders after $\frac{1}{3}$
 - Others after $\frac{1}{2}$
- Postponement
 - In practice only by the consent of the prisoner
- Decisions by the prison governor
 - Right to appeal to district court

Postponement of a regular parole (PC 2c:9)

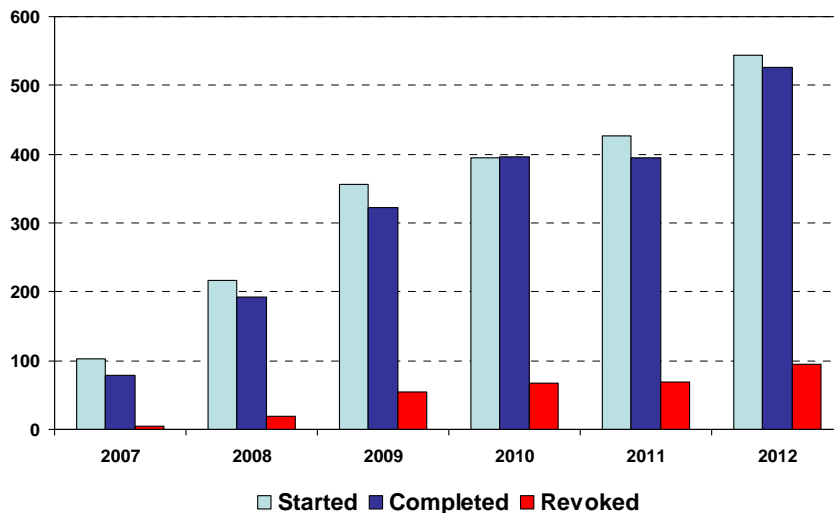
- ...with the consent of the prisoner
 - if new sentences of imprisonment are to become enforceable or if the prisoner wants to postpone his release for another justifiable reason.
- ...without the consent of the prisoner
 - “if... there is a clear danger that the prisoner, upon his release, will make himself guilty of an offence violating the life, health or freedom of another
 - and if the postponement of release is necessary in order to prevent an offence”.
- Process of non-consensual postponement
 - The decision is taken by the Criminal Sanction Agency (not the prison)
 - The decision must be reviewed at least every six months.
 - The prisoner may appeal against postponement in district court
- Annual number of postponements
 - Consensual; about 5/y. Non-consensual; about 1/y

“Supervised probationary liberty” SPL (since 2006)

For long term offenders that need special support when released

- Maximum of six months before “regular” release on parole
- Preconditions for release under SPL
 - Furthers the sentence plan
 - Prisoner deemed to able to complete the supervision order
 - Permanent housing (or other place suitable for carrying out the order)
 - Abstinence from substances
- Management: By the prison; Electronic monitoring
- Decision: By the prison director
- At any given day around 150 prisoners
- Failure rate 16-17 % (revoked in 2011-2012)

Supervised probationary liberty 2007-2012



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High risk violent recidivist serving the full sentence

- Small number of repeat violent offenders
 - now serving around 35
- Replacing previous preventive detention order
- Decision process
 - 1st decision by the district court (ordered to serve the sentence in full)
 - 2nd decision by the court of appeal
 - not to be released on regular parole when the time limits are at hand
 - specific risk assessment (takes 3-4 weeks)
 - In all cases release on parole takes place latest 3 months before the end of the prison term
 - Problem: no (or very short) supervision after release

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Serving the full term of sentence in prison (PC 2c:11)

- A court may, upon sentencing, on request of the prosecutor, decide that the sentenced person shall be released only after he has served the term of sentence in full if:
 - 1) the offender is sentenced to a fixed-term sentence of imprisonment of at least three years for murder, manslaughter, killing, aggravated assault, aggravated rape, aggravated sexual abuse of a child, aggravated robbery, aggravated criminal mischief, aggravated war crime, aggravated violation of human rights in a state of emergency, genocide, aggravated human trafficking, taking of a hostage, aggravated endangerment of health, nuclear device offence, hijacking, an offence committed with terrorist intent or an attempt thereof;
 - 2) the offender has, during the ten years preceding the offence, made himself guilty of an offence referred to in paragraph 1 or if an offence referred to in paragraph 1 has been committed within three years from the date on which he was released from serving a full term of sentence or life imprisonment in prison or on which he was conditionally released in the manner referred to in section 12, subsection 1; and if
 - 3) the offender, due to factors indicated by the offences or on the basis of a statement in compliance with chapter 17, section 45, subsection 3 is to be considered extremely dangerous to the life, health or freedom of another.

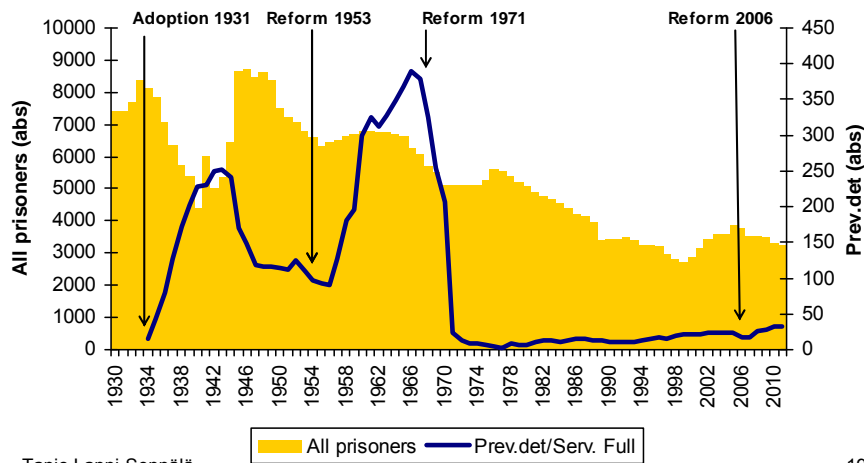
New handling in court (PC 2c:12)

- A person ordered to serve the term of sentence in full shall be conditionally released after he has served five-sixths of his sentence if he is no longer to be deemed extremely dangerous to the life, health or freedom of another. Conditional release may, in accordance with this subsection, take place at the earliest when the prison term has lasted three years.
- Prior to conditional release, the prisoner may be ordered to probationary liberty under supervision. Should the Criminal Sanctions Agency consider that the release referred to in subsection 1 needs to be reconsidered due to an offence committed under the probationary liberty under supervision, it shall refer the matter for rehandling by Helsinki Court of Appeal.
- If the person ordered to serve the term of sentence in full is not conditionally released, he shall be placed in probationary liberty under supervision three months prior to his release.

The rise and fall of preventive detention in Finland

Prisoners 1930-2011 and recidivist in preventive detention 1930-2006 and prisoners serving their sentence in full 2007-2011 (absolute figures)

Source: Criminal Sanctions Agency.



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Life sentences (PC 2c:10)

- Imposed only for murder
- First possibility for parole after 12 years (offenders under 21 after 10 years)
- Attention shall be paid to
 - the nature of the offence or offences leading to life imprisonment,
 - the risk of reoffending
 - the behaviour during imprisonment.
- Release process
 - Decision: Helsinki Court of Appeal.
 - In all cases a risk assessment is needed
 - Before release, prisoner he may be ordered to probationary liberty under supervision.
 - Decision reviewed in one years intervals
 - Average duration of life before release = 12-14 years
- Parole period = 3 years
- Worriesome trend
 - Increase in the number of life prisoners as as result of stricter interpretation of the rules about diminished responsibility).

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3 Supervision orders

Regular supervision after release

- Discretionary (as a rule)
 - the part of the sentence not served (remaining sentence) in prison is more than 1 year;
 - the offence is committed under the age of 21; or
 - the prisoner so requests
- About 20 % of released prisoners (annually 750/3800) are placed under supervision

Contents of regular supervision

- Meetings and programs max 12 hour/month
- Contents is defined in supervision plan
- Discussions, programs and plans related to substance abuse, studies, work, family, life situation
- Work is "individualized but goal-oriented"
- Supervision plan needs to be confirmed before the release.
- The realization of the plan is under constant monitoring

Contents of SPL

- Electronic monitoring (GSM or foot collar)
- Control of movement outside home
- Work-practice activities, studies
- Counselling
- Supporting activities, for instance substance abuse treatment

The length of the post-custody supervision period

Regular parole

- Unserved part of the term of the punishment
- Max 3 years

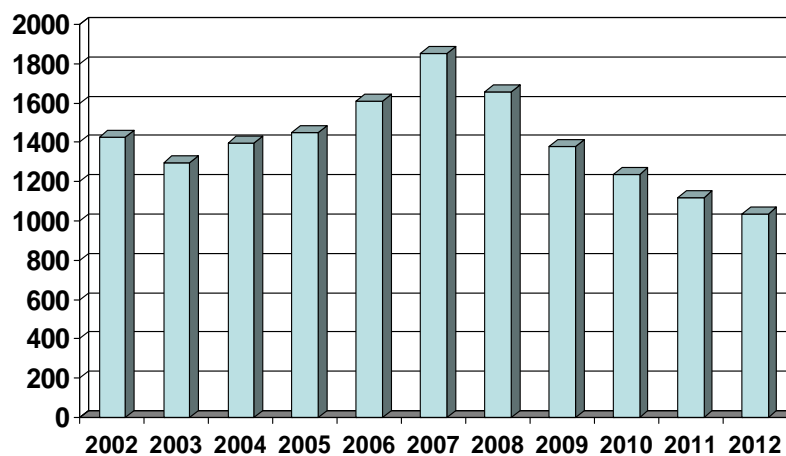
Supervised probationary liberty

- As expressed in the release decision (max 6 months)
- Continues as a form of regular parole supervision

Parole period after life imprisonment:

- 3 years
- Supervision can be terminated after 6 months, if no longer necessary

The number of parolees under supervision



4 Parole recall

Breach of conditions and revocations

- Breach of conditions
 - Written warning (50-80 cases/year)
 - Fetched by the police 50-80/year
 - In serious cases, report to the prosecutor (10-20 /year)
 - If prosecutor deems the breach as a serious -> requirement for revocation to the court
- Revocations
 - In practice only due to a new offense leading to a prison sentence
 - "Serious breach of conditions"
 - Revoked 4-14 days
 - 1-2 cases/year

Revocation of parole due to a new offenses

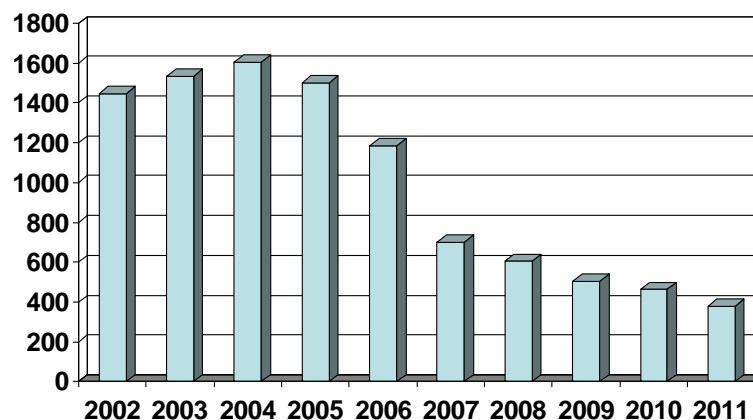
- Recall always discretionary
- When revoked: a new "combined sentence" based on the unserved part of the old sentence and the new prison sentence
- "Rules of thumb" followed in sentencing practice
 - Short remaining (old) sentences (below 3 months" are not revoked
 - Short new prison sentences (below 3 months) will not lead to a revocation
 - When the old sentence is revoked, a maximum of 1/3 of it will be included in the new combined sentence

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Parole revocations due to a new offense



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Expired/terminated supervisions in 2012

ALL	831
CAUSE	
▪ Probation time expired	658
▪ Supervision terminated	100
▪ Parole revoked	47
▪ Deceased	10
▪ Transfer to other Nordic country	5
▪ Other reason	5

5

Decisions, appeal and legal aid in the parole process

Decision making powers

- *Release on parole*
 - Regular parole or supervised probationary liberty: prison director
 - Postponement of parole without consent: Criminal Sanctions Agency.
 - Release from life imprisonment and prisoners serving their sentence in full: Helsinki Court of Appeal.
- *Placement under supervision*
 - prison director
- *Recall and revocation*
 - Revocation of parole is always a matter of the court.
 - Consequences of a violation of probationary liberty: prison director.

Appeal review and rights

- General rules for appeal after a sentence
 - All offenders are entitled to appeal against any sentence (for example against the courts ruling that the sentence has to be served in full)
- Appeal to district court
 - Non-consensual postponement of parole
- Claim of rectification to the director of the regional prison
 - Against all decisions listed separately in the law
- Appeal to the Administrative Court
 - Against the decision of the director of the regional unit

Claim for rectification to the director of the regional prison and appeal to the Administrative Court

Claims of rectification allowed in the following decisions:

- postponement of enforcement on health-related or for reasons
- placement in a high-security ward
- transfer from an open institution to a closed prison referred
- the possession of property and the use of money
- the withholding of a letter or postal item
- prohibition to visit
- permission of leave for a particularly important reason
- a caution, loss of rights and solitary confinement sanction
- segregation
- revocation of the probationary liberty referred to in chapter 2 c, section 8 of the Penal Code

Appeal to the administrative court

- Right to appeal to administrative court in 14 days

Legal aid

- A prisoner may be granted legal aid for his appeals (district court and administrative court) following the rules of the Legal Aid Act
- Information on the financial circumstances referred to in the Legal Aid Act need not be presented.
- The court shall decide on the granting of legal aid.

6 Other elements in the "stepwise enforcement process"

Prison-leaves

- Basic
 - Leave for maximum 3 days in every two month may be granted if 2/3 of the sentence (but ≥ 2 months) has been served
- In addition
 - can be granted for important reasons (for example attending to the family, health care, subsistence, work, training, social or housing issues)
- For life prisoners
 - if found ineligible for leave due to sentence length, he/she shall be granted a permission of leave under escort at least once/year
- Figures 2012
 - Applied leaves 14 749, granted 10 984, breaches 4,3 %

Transfer to open prison

- Part of the normal enforcement of every sentence
- Directly
 - Max 1 year sentences (discretion)
- From closed to open units
 - Part of regular prison process
 - Attending to open prison programs
 - Obligation for substance abstinence
- Applies to all prisoners (also life sentences)

7 Summary and outlook

Key figures (2012/2013)

- All released 2012 from serving a sentence = 3 728
- Regular parole
 - All released on parole 2012 = 3 682
 - In parole supervision 1.10. 2013 = 1 066
 - Persons placed under supervision in 2012 = 739
 - Parole revoked due to new offense in 2011 = 380
 - Parole revoked due to breach of conditions 2012 = 1-3
- Offenders serving their sentence in full
 - 16.10.2013 = 37 (=1,2 % of prisoners) = 37
- Prisoners in probationary liberty
 - 16.10.2013 = 138 (=4,5 % of prisoners) = 138

Problems and reform plans

- The decline in the number of supervision orders in regular parole
 - "New clients" based on reoffending risk
 - Supervision when "especially warranted due to the risk of reoffending"
- The problem of short supervision period in high risk violent recidivists (serving their sentence in full)
 - Adoption of a new compulsory 2 years supervision period