
Unit-08 □ Probation, Parole, Statutory Provision and after care Principles and Practice, Role in Control and Management of Crime

Structure :

- 8.1 Probation**
- 8.2 Parole**
- 8.3 After Care of Prisoners**
- 8.4 Prevention of Crime**
- 8.5 Reference**
- 8.6 Exercises**

8.1. Probation

Provision of probation was introduced in India in 1958 by passing the Central Probation Act. Though section 562 in 1898 criminal procedure code permitted release of an offender on probation but it applied only to Juvenile delinquents and first offenders. There was no provision for supervision and only 1st class magistrates were empowered to grant probation. British Government permitted states (provincial Governments) in 1934 to enact their own laws permitting probational release. Madras and Madhya Pradesh acted such an Act in 1936. Bombay and Uttarpradesh in 1938, Hyderabad in 1953 and West Bengal in 1954. But all these Acts were meant only for the probational release of Juvenile delinquents.

Probation is an alternative to prison. It is suspension of sentence of an offender by the court and releasing him on certain conditions to live in the community with or, without supervision of a probation officer. Probation is granted by the court considering amongst others the nature of the committance of crime and behaviour of the offender and probability to bring him to normal social life. The idea of granting probation was the innovative thought of social Psychiatrists, criminologists and legal philosopher to bring to criminal into social control and changing motive of committing crime and thereby distabilising social norms.

The 1958 Act applies to all offenders. It permits the release on probation for a mximum period of 3 years and also has a provision for revoking the term. Some states like have linked it with Law Department while some states like have linked it with Law Department while some states have separate Directorate. The probation officer have been assigned two functions : Social Investigation and supervision of probationers. There are about 550 probationer officer through out the country on an average, one probation officer investigates 20 cases and supervises 10 cases in a year.

Provision of releasing offenders on probation is now practiced in all civilized democratic country considering its advantages over prison. The main advantage is that, no stigma is attached to the offender release on probation, unlike prisoner who find it difficult to get social acceptance. Women prisoners are especially disadvantaged as they are disowned by their families and communities and in this way probation helps in social reintegration. Another significant point is that there is no break in a probationer's economic life. A prisoner loses his job on imprisonment and even on bring released finds it difficult to find employment. But a probationer can continue working for his livelihood without suffering financial loses. The probationer's family does not suffer and he does not feel frustrated since he is not separated from them for long periods of time.

The probation system is of course not free from disadvantage. The offender is put in the same enviromnet in which he committed the crime. There is a chance that the offender may repeat the crime, either voluntarily or, due to circumstances as being provoked by others. Apart from that a probationer has no fear of punishment. The victim and the society may feel deprived of justice and a sense of terror may prevail in society.

But the advantages of probation are far more than the disadvantages. The probation gives the offender a chance to reform under controlled circumstances. He is prevented from repeating his offences and gradually converted to a non-offender. Reformists have countered criticism against probation by suggesting new measures to make it more effective by breating probation as genuinely an alternative to imprisonment. The major emphasis has given on the rehabilitation of the offender and not just retribution. Quick and hassle-free probation leads to easier rehabilitation for probationers. It also saves time, money and man power for their families.

8.2. Parole

Parole is another method of individualized treatment. Parole is a conditional release granted to a prisoner who has served a part of his sentence in a Penal Institution. While that is also a community treatment conditionally applied and the methods of supervision closely resemble there employed in Probation, there is still a distinction between the two. In the case of the Parole there has been a period of institutional treatment. Parole is an adjunct to institutional treatment where as probation is an alternative to it. Another significant point is that the future conduct of the parole is adjudged whereas in the case of probation it is the court that orders further disposition. In the words of Barnes and Teeters, "It is a form of release, but it always presupposes some sort of supervision, for it is not freedom. There can be no parole without a previons sentence following a conviction by a court or, jury or, without an institutional experience. The parole must have been released from some sort of institution under some sort of supervision. Hence it must never be confused with probation with pardon. Thus the granting of Parole is merely permission to a prisoner to serve a portion of his sentence outside the walls of prison. As against probation he continues to be in the custody of the authorities, both legally and actually, and is still under restraint. Parole, wisely and efficiently administered, gurantees to the community that the released prisoner is a potentially asset because of his institutional training, and it is one of the bulmarks of a progressive penology.

Closely correlated in function and usage parole is the system of indeterminate sentence, though it is not in vogue in country.

It is in the light of this parole system or, indeterminate sentence introduced in some other advanced countries that release of prisoners for good conduct Acts were passed in most of the states of our country. Under these Acts, a provincial government may release a prisoner on licence subject to conditions, if from his antecedents or, conducts in prison he is likely to abstain from crime and lead useful and industrious life. He will be placed under the supervision of an officer of the state or, a secular institution or, a person willing to take charge of him. A licence is revocable. On revocation the prisoner shall be recommitted and shall serve the unexpired term of the original sentence. He also forfeits any remission earned before his release.

8.3. After Care of Prisoners

“The concept of after care of prisoners is derived from penological thought that regards reformation and rehabilitation as the ultimate aim of penal administration.” [Report of the advisory committee on after care programmes, Central Social Welfare Board 1954]. This after care aspect of prisoners on release for the proper rehabilitation of prisoners has received much attention in these days. Generally, a convict loses some of his civil rights, he is stigmatized by society and finds difficult to get a Government or, private job and ready himself in the society. As Barnes and Teeters point out, an ex-prisoner is ill prepared for life after prison because of various handicaps from which he suffers as loss of civil rights, stigma if conviction, follow-up by police etc. They observe, “The prisoner returning to society is seriously handicapped under the most favourable conditions. This is especially true in so far as obtaining work is concerned.” No doubt some welfare agencies in some advanced countries provide after care services for ex-prisoners and help them in providing jobs, but very little attention has been paid to this aspect in our country. The Indian Jails Reform Committee (1918-1919) emphasized for help to the released prisoners. It was on the recommendation of this committee that fresh stimulus was given to this work. In order to provide such services on a large scale and on scientific lines, the Central Social Welfare Board appointed an Advisory Committee on After Care Programmes in 1954 to look into the conditions of present services and suggest certain measures for their improvement. Again a Committee was appointed in 1990 to look into the after care service. The after reviewing the work of various agencies has suggested a comprehensive plan for the after care services including after care services for delinquent juveniles and the widows. The committee has discussed two aspect, of after care programme, i.e. vocational rehabilitation and social rehabilitation which are mutually interdependent. No doubt some after care homes have been set up for various types of person in various states of the country. But true and proper service to ex-prison is still a far-cry. The study team on social welfare rightly remarks, “It is a matter of regret that voluntary efforts of these, agencies have not been effectively utilised in the execution of the after care programme”.

It is the felt reality that the prevention and control of crime, treatment of offenders and after care of prisoners should be treated as a unified programme of social defence. The Department of prisons and correctional services should exercise jurisdiction over prisons, Juvenile delinquency, probation and after care services.

8.4 Prevention of Crime

The General Assembly of United Nations in their resolution in December 1950 provided for the convening every five years of an International Congress on the prevention of crime and treatment of offenders. The first Congress was held in Geneva in 1955, the Second in 1960 in London and the 3rd in 1964 in Felkets Hais (Stockholm). The third Congress discussed two programmes (a) Prevention in the Predelinquent stage through family education, protective programmes, police service etc (b) prevention of recidivism. This last required four measures : (i) control of criminogenic factors conducive to recidivism such as detention pending trial, inequality in the administration of justice etc. (2) adult probation and other non-institutional measures (3) special prevention and treatment measures for young offenders (e) prevention of criminality by abnormal offenders and their treatment.

In spite of some efforts made by central and state governments in the prevention and control of crime and reformation of prisoners in the last few years, many more steps are still needed to reach desirable standards. The following few suggestions may be put forward.

- [1] Adoption of the principle which shifts from punishment to treatment.
- [2] To reduce number of undertrials.
- [3] Short sentences to be discouraged.
- [4] Fines and default imprisonment to be reduced.
- [5] Premature releases.

Last but not least, there should be full time after care services for prisoners released before due date or, after completion of their sentences. Without it the prisoner who has no place to go will be forced to seek his old haunts and his old friends and all the efforts made over him will have been wasted. A programme of after-care must address itself to the problem of the prisoner's social and vocational rehabilitation and set him on his own feet to an honest and independent living. Considering the prevailing prejudices against an ex-prisoner the state should give the lead in facilitating his rehabilitation by a preparedness to re-employ him if he has earned a good chit from the probation and after care agency unless this is done jails will continue to be places which foster at public expense future criminals who, embittered by the society's refusal to give him a chance to live as honest citizens even after they have paid their dues in the hard coinage of punishment, will be driven to further antisocial behaviour.

There should be psychological clinics attached to jail hospitals as is done in U.S.A. The field workers attached to these clinics should collect data from thier family, homes, and about the past history of prisoners so that individual treatment can be rendered.

It is hoped that if the suggestions made above are put into practice they will go a long way in the reduction of crime though the country.

8.5 Reference

- [i] Indian Social Problems—G. R. Madan
- [ii] Probation and Parole—C. R. Jaccob.

8.6. Exercises

- (i) What is meant by Probation? What are its advantages.
- (ii) Do you consider Parole is a jutifiable means to reform the prisoners.
- (iii) Write explanatory notes on after care service in the Prevention and Control of crime.

Unit-09 □ Structure and Function of Correctional Institution, State Organisation, Observation Homes, Children Homes and Shelter Homes.

Structure :

- 9.1 Structure and Function of Correctional Institution**
- 9.2 State Organisation**
- 9.3 Observation Homes**
- 9.4 Children Home**
- 9.5 Special homes and shelter homes**
- 9.6 References**
- 9.7 Exercises**

9.1 Structure and Function of Correctional Institution

Correctional Institutes provide correctional services to the various categories of offenders. Correctional services include prevention of criminal activities through government departments which are planned and systematically organized and voluntary organisations whose activities are less co-ordinated. Prevention can be punitive (e.g. prison), (e.g. probation) in nature. This requires co-ordination between all departments of the criminal justice system.

Criminal Justice System (CJS) as a matter of fact comprising of :-

- (a) The Investigating agency
- (b) The Prosecuting agency.
- (c) The Justice delivery system through courts
- (d) The correctional services or, the jails.

All these 4 components of CJS has been recommended by the expert committee for improvement. Firstly a paradigm shift of the criminal. Justice system will be quest for truth and not just assessor of evidence. The judge will play a more active role. The police as the investigative and law enforcing agency need to be insulated from political and other extraneous influences. And correctional institutions or, jail will render both preventive and curative service to the offender with the basic purpose of converting an offender to an non-offender. The increasing awareness of civil liberties and human rights have influenced the institutional and non-institutional method for the reformation and the rehabilitation of the offenders. Fundamental rights, Human rights concept

and protocols form the basis of India's criminal Justice system and influence its correctional services. It has been observed by many that accountable correctional services are the best safeguards of human rights. A more humane approach to correctional services to offenders is non the professed goal of India. With the greater understanding of the causation of crime, the concept of correctional services too have undergone a sea-change. The newly emerging concept of Restorative justice looks at inter relationship not only between criminality and offenders, but also at the communities that provides the broad context to the crime.

Correctional Institution or, jail or, prison is a unisex world where every inmate is stigmatised and has to carry on tightly scheduled activities in the company of strangers. The inmates are deprived of liberty, privileges, emotional security and hetero-sexual relations. Considering all prevailing occurred situation in Indian correctional institutions, following major functions of correctional Institutions are suggested :—

- [1] Keeping in view of recommendations time to time made by National Human Rights Commission, the offender ought to be provided adequate emotional support as well as human treatment.
- [2] A balanced policy of liberalization and strictness regarding the inmates be adopted for punishing/treating the offenders through imprisonment.
- [3] The prison system's needed to make more effective in correcting the deviants. Undertrial should not be kept with convicts in the same prison.
- [4] Inmates should be provided access to their files.
- [5] The Correctional Institutions must make proper diagnosis before assigning barrack or, work to prisoners. Then should be given freedom of choosing the work of their choice.
- [6] Release on parole should be made easier and more effective.
- [7] Private industries should be encouraged to come to prison for providing variegated needs of the prisoner.
- [8] Correctional Institutions should provides ...channels to inmates for expressing that grievances.
- [9] A constant vigil should be maintained to look after the dress, food, shelter, hospital facilities of the inmates so that minimum standard of United Nation's norms are maintained.
- [10] Keeping it in mind that there is no connection between severity of prison conditions and incidence of crime, the correctional institutions should endeavour to devise programmes which may induce prisoners to turn over a new leaf.
- [11] Probation officers and other welfare officers must discharge their obligations properly so offenders get probation in accordance with the expressed provisions of the criminal procedure code 1973 (Amended). The probation officers should carry their two

assigned tasks or, function, Social investigation and supervision and relate the investigation for curative measure of the offender. Last but not least prisoners shall not be neglected, humiliated or, deprived for their humanity through cruel and degrading treatment at any stage of their confinement.

9.2 State Organisation

Each and every state is equipped with sufficient number of prisons or, correctional institutions for imprisonment, confinement of offenders. In the state of West Bengal there are central jails, district jails and subdivisional jails and special jails. Imprisonment as a form of punishment came to be applied on uniform basis through out India in 1860. The Prison Act 1894 governs the administration of prisons in the country. However action towards developing a uniform legal frame work has been hampered, because the subject of Prison falls in the state list of seventh schedule of the constitution and the central government is reluctant to intervene. However, the position now seems to have drastic change with the new interpretation given by the Supreme Court of India regarding matters relating to the handling and .. of prisoners. It has been clearly laid down that the manner in which offenders are treated in jails in an extension of judicial process itself and the rights of the prisoners are to be protected by the court. It should therefore responsible for the central government initiate action for the updating revision and consolidation of prison laws and to prepare a new Model Prison Manual for the states adopt and to administer Prisons. The exercise will also help in generating public opinion to serve as the springboard for political will and executive action on progressive lines.

A prison today serves the purpose of being custodial, a deterrent, coercive, curative, reformatory, correctional, rehabilitative and for resocialisation. It is not an independent system of power, but an instrument of the state shaped by its social milieu and by the stage of economic social and political development.

The Inspector General of prison is the executive head of all prisoner correctional Institutions of the state. The home department deals with prison affairs. Each state has a central jail and various district jails and some special jails. The district jails are headed by Superintendent. The Superintendent discharges administrative, executive, financial and other miscellaneous functions. This involves day to day management of the jails, that is of prisoners, the jail staff, the jail—budget etc.

The Jailor is the chief executive officer of the jail. He works directly under superintendent. He is assisted by assistant and sub-assistant jailors. The jailor is responsible for providing basic services like food, clothing, medical, vocational and recreational facilities to the prison inmates. Each jail also has a male and female warden sections of the jail. They look after prisoner's need on daily basis. There are also chief modern read day to day activities of various

Apart from administrative setup, there are medical officers, Probation officer, social welfare officer for rendering correctional services. Central jail or, prison are those that house prisoners

that have been sentenced for over 3 years and some have adjoining but separate areas for female under trials. District jails house prisoners sent to less than 3 years detention.

9.3 Observation Homes

Observation homes are also known as Remand Homes. These homes are meant for children during the pendency of their trial in the courts, but they are also used for keeping the homeless, destitute and neglected children. The stay here is used for evaluating their personality traits and behaviour. As such, these homes are viewed more as observation homes than as places of detention. The important characteristics of good Remand Homes are segregation, education, training, recreation facility, health care, controlled discipline and effective supervision. Since the child in the Remand Home comes into contact with the law for the first time, if the environment is not kept conducive, the child might become suspicious and defiant towards the courts.

In India Remand/observation homes do not exist in all states. Remand/observation homes are managed by Government funds as well as voluntary agencies. These are separate homes for boys and girls of the total inmates, two thirds belong to the 7-14 years age groups while the remaining one-third are either below seven years or, between 14 and 18 years. Doctors are appointed for health care on both fulltime and parttime basis. The average expenditure per inmate per month in a Remand Home or, observation home was Rs. 60/- in 1973 and Rs. 310/- in 1993, Rs. 526 in 2002. The amount allotted is not adequate to meet all the needs of the child and cases of runaways are commonly heard in these homes. The National Human Rights Commission recommendations to improve the condition of these homes are under active consideration of the Government to ameliorate the conditions of the inmates.

9.4 Children Home

These homes are established for reformation of the children offender and maladjusted children. Children given detention order by the court are kept in children home for a minimum period of 3 years and a maximum period of seven years. Inmates of about 18 years of age are transferred to Borstal Schools. These schools, meant only for boys, remain under the supervision of prison departments. Each school having a capacity of 80-100 inmates is divided into 4-5 dormitories and each dormitory has 4-5 cells. Each school has a Superintendent, deputy superintendent, deputy jailor, assistant jailor, doctor, 3-4 instructors, 2-3 teachers and some wardens. Training is given in tailoring, toy making, manufacturing leather goods and agriculture. Each training programme is of 2 years. The inmate gets the raw material from the school and things manufactured by them are sold in the market and profit is deposited in their account. The inmate even gets basic education up to 5th standard and has to appear in the examination conducted by the Inspector of schools. If the inmate wants to study beyond the 5th standard, he is admitted in the outside school. Since no work is forced upon the inmates here, they live like family

members. However, no follow-up records are maintained by the schools after the release of the inmates. The training programme are too old and traditional. The homes face usual problems of inadequate funds and ill-trained staff and lack of basic amenities. Cases of physical and even sexual abuse of children by the Staff and older children are also common. Frequently the children escape from these reformatories and return to the streets to a life of crime. Counselling is essential in these homes for improving the mental health of the children and inmates.

9.5 Special homes and shelter homes

These special homes and shelter homes are established for providing shelter and specialised training to young offender for their reformation. Reformation is the modern concept of punishment developed in the era of widespread use of prison sentences. These homes were established to accommodate maladjusted children Juvenile delinquent and violent and virulent and sex violence offender. These homes used to serve the purposes of reformatories. These a programme of work, educations, recreation and religious services in order. To assist in rehabilitating the offender and preparing him for his entrance back into law-abiding society. These homes are meant to foster quick reformation of the offender. The cost of these Homes for maintenance are mostly borne by the state governments. Probation officer, welfare officer, medical officer, teacher and instructors run these homes. Counselling services are also provided for improving and restoring their mental health. Protection is another feature of these homes which provide security of living to the inmates. Base-level and primary education is also provided in these homes. Vocational training occupational training is also provided to make them employable. This also helps in their rehabilitation task in later course of life and their mainstreaming. In level ... are established at the ... of the state government. Special homes are established by Central Govt. particularly after 1990 in main states for providing shelter and as well as training during the period confinement of the offender.

9.6 References

- (i) Correctional Administration—P. L. Nanda
- (ii) Indian Social Problem—G. R. Madan
- (iii) Govt. of India Publication—New Delhi on Reformation of Correctional Institution.

9.7 Exercises

- (i) What is meant by Correctional Institutions? Narrate the structure and function of Correctional institution.
- (ii) Write explanatory notes on—(a) observation home (b) children homes.
- (iii) What are the basic reason for establishing special homes and shelter homes?

Unit-10 □ Correctional Institutions

Structure :

10.1 Correctional Institutions

10.2 Social Work Intervention in Correctional Setting

10.3 Role

10.4 Reference

10.5 Exercises

10.1 Correctional Institutions

Social work intervention and methodology is keenly required in correctional institutions to reform the offender and helping their entrance-back of to the law abiding society. The social worker try to establish rapport with the offender. The can help the offenders to help free legal aid for undertrials who may be too poor to afford a lawyer. Social workers provide guidance for use of the community resources and services. If the prisoner is the sole bread earner than the family may require financial support or, alternative employment with the quidence of social worker. The Basic need and medical expenses of Prisoner family need to be met by other sources by the social worker, during the offender's term of imprisonment. The legal concern the needs of the offenders. The social worker can provide remedial measure to the offender with the help of external agencies or N. G. Os.

Social Workers may find it a challenging task to work with the inmater of correctional home. The central theme of Social Work Prefession in connected with Social Justice and the Social Workers must be dedicated to enhance social order, Social Security and restore a peaceful environment by giving due respect and dignity to the individual. According to the activities of Social Work; its function may be categorized as—

- (i) Restoration of impaired capacity.
- (ii) Provision of individual and Social resources.
- (iii) Prevention of Social dysfunction.

These functions are inter-related to each other. They majorly deal with curative and rehabilitative, activitier by eradication of deviant activities. Which may aducrely affect the Social functioning. The Secondary Methods Particularly Social Welfare.

Despite legislation protecting Juvenile prisoners children committed to prison in India experience extreme cruelty and neglect. In most cases, juvenile prisoners are put together with hardened criminals. They are often sexually abused and compelled to do hard work. Older detainees make them do the heavy work allotted to them, usually in connivance with jail officials. This takes place in most of the situations. The social worker try to pursue Supreme Court ruling stating that care be taken to ensure such practices do not occur at the detriment of the under trial or, sentenced offender.

Delinquent children need empathy and provision of therapeutic environment in order... have forgotten how to trust others, remmebr destructive behaviour and assume responsibility for themselves. They need help in finding legitimate means of seeking satisfaction of their basic urges. In most cases the parents and family members also need counselling services so that they can provide whole some training and a more adequate home climate for children.

Thus parents and other family members need to be re-oriented and helped in the matters of their own behaviour—control for the purpose of effective socialisation of children. it is axiomatic that if a change is desired in the behaviour of the children the persons in immediate contract with them should change the way they behave to achieve this end, aspects of social field education, institution and control should continue to be essential in bringing changes to the ... of diverse individual beliefs, conventions and idiosyncrasies which are in opposition to the social development of the children. Definite and positive guidance to the parents, teachers and guardians is the need of theday suggesting, minimization of the increasing inconsistency between the ‘adult work’ & ‘the world of children’. The adults are parent, teachers, guardians, scientists, social workers, administrators etc. are all required to respond in radical ways, to cultivate environmental perception & to nurure self-constructive behaviour. Environmental education is required to reduced and eliminate self-destructive trends. It can be stressed that the mental health of children depends more than anything else on the love received from their parents and harmonious relationship between the father and the mother, phycho-therapy is required to diminish marital disharmony.

10.2 Social Work Intervention in Correctional Setting

We know that the Professionals of Social Work is committed to improve human and social conditions and alleviating human distress and social problems and lead a life with dignity. So the central idea of Social Work is to promote Social Justice. The core idea of the correctional service is to reorient and re-socialise the deviant behaviour traits of an individuals’s personality by providing helpful and educative facilities and services which may help in increasing a feeling of repentance and a strong desire to correct oneself. Social Work tries toreshape one’s behaviour through control and socialization. Social Worker requires to develop skills to understand crime and the criminal bhaviour of the inmates, and accordingly chalk out the problem-solving method to deal with them.

Social Work aims to enhance the social functioning of individuals, groups, and communities by improving their social relationships. For achieving this aim Social Work performs following functions—

Resources : The Social Worker will have to look for enough resources to enhance capabilities of the inmates of the correctional homes by introducing new developmental programmes and interactive activities within the correctional setting and thus improve the social interaction within the inmates.

Restoration : Under this, a social worker may carry out both curative as well as rehabilitative functions, by identifying and eliminating the causes which resulted into the disruption of the social functioning, while its rehabilitative aspects deals with re-establishing the interaction process. The profession of Social Work is problem solving in and hence, it's methods can effectively be applied in the treatment and rehabilitation of the inmates of the correctional home.

Prevention : Much of the emphasis is given on elimination of such situations which may lead to the commission of delinquent or deviant activities. Thus prevention and control of the criminal activities for checking the rate of crime is a crucial part of social work. A social worker must carefully examine the cause and effect of the problem which results in social dysfunction, and then chalk out remedial measure to deal with it.

Social workers play a vital role in the criminal justice settings. They have to study deeply the mental, social and emotional condition of the new inmates who come to the correctional home, and think of suitable strategies for treating and supporting them. They may work with the individual inmate or groups of inmates with same problems, or may also provide referrals to medical or mental-health services.

Enough scope must be given to the inmates to ventilate their inner frustration, regrets agony fear and anger so that they feel better emotionally. Their hopes, desires and aspirations must be noted down, so that the social worker may plan out accordingly. Another challenging job that the social worker has to perform is to initiate effective communication and interaction within the inmates of the correctional setting. The inmates are from different background and have their own perceptions, but the social worker must ensure that the difference of opinion does not lead to hostility.

They must constantly monitor and record the progress and compliance of inmates within the correctional setting. They must closely observe their needs and requirements and also recommend for probation and parole. They are responsible to plan out programmes for the overall development of the inmates by providing integrated services which may include education, counselling, cultural therapy, introducing income generation programmes, fixing up meetings with the family members and also looking after the welfare activities of the inmate as well as their families. In the community setting also the Social Worker has an important role to play, which may be both rehabilitative and preventive in nature. They have to take initiative to settle down the inmates, once they are back to the community life after getting released from the correctional home. They must be helped to

regain their lost self-esteem and be motivated to start a new life with dignity and self-respect. The community members on the other hand be encouraged to accept them as a part of their society. They are also the agents for social control along with police and legal personnel. They may carry our programmes related to Anti-trafficking. Anti-dowry, domestic violence, child marriage, and also organize camps on legal Aid to raise awareness within the community.

10.3 Role of Social Worker

Social workers have positive role for the prevention of crime, rendering due and effective service in correctional institutions, in probation and parole applying suitable methodology.

Studies reveal that if social planning and economic development go hand in hand then there is no increase in juvenile delinquency. Social workers stress the needs to be amended to cover the minimum preconditions like welfare facilities, formal education or, training etc to ensure a good category of living to all children including those with delinquent tendencies.

In case of correction institutions and various categories of Homes, the social worker establishes a close nexus between the offender and the authorities and hereby ... The social worker also provide effective counselling to the offenders to improve their mental health so that could be made prepared for future eventualities in social re-orientation after the completion of the term of the sentence.

During probation the social worker maintains close rapport with the probation so that he can maintain good conduct record by abiding the rules for conditional release. During probation the social worker can provide effective counselling to the offender so that his mental health becomes sound and can easily overcome the stigma of imprisonment and confinement.

During the release on parole the detainee be given Psychoanalytic treatment by the social worker. He will help the offender to unfold his unconscious motives and repressive.. social worker for his effective mainstreaming

It is also the task of the social worker to explain the necessity of comprise between individual needs and social need to the offenders, so that they can make better adjustment to his environment overcoming the pent-up feelings of inadequacy and deprivations.

It both the cases of probation and parole the social worker should maintain a keen vigil to the offenders, watch their every moment for inflicting socialization process on them. Socialization process are considered to be vital through which elements of personality gain determining forces. The wide array of forces which act on the individuals during their life process seem equally responsible for producing social as well as anti-social.. such interactions are dynamic in characters. Social workers in course of giving counselling to the offenders assert on perceptual and behavioural patterns so that offenders understand that future days can bring some good prospects for them and their social living will be purposive meaningful and pleasant social worker thus provides individualised treatment.

10.3 Reference

- (i) Social Defence in Indian Society — Joshi + Bhatiya
- (ii) Crime and Delinquency by Haskell and L. Yablonsky-Chikago.

10.4 Exercises

- (i) State the process of application of social work method in correctional Institutions.
- (ii) Trace the role of the Social worker in Homes and Probation and Parole for effective socialization.

Unit-11 □ Human Rights and the Law, Enforcement Agencies— Role of Police Judiciary and Statutory Agencies

Structure :

11.1 Human Rights and the Law

11.2 Enforcement Agencies

11.3 References

11.4 Exercises

11.1 Human Rights and the Law

The concept of human right tells a detailed story of the attempts made to define basic dignity and worth of the human beings and his or, her most fundamental entitlement. The denial of human rights and fundamental freedoms not only is an individual and personal tragedy but also creates conditions of social and political unrest showing the seeds of violence and conflict within and between societies and nations. Just to avoid these problems various international agencies including League of Nations, UNO, laid stress for the protection of human rights permanently, although the idea of Human Rights predates the United Nations.

It can be easily appreciated that human rights and fundamental freedoms allow us to develop fully and use our human qualities, our intelligence, our talents and our conscience and to satisfy our spiritual and other needs. They are based on mankind's increasing demand for a life in which the inherent dignity and worth of each human being will receive respect and protection. In the language of United Nation's Center for humanr rights—human rights could be generally defined and those rights which are inherent in our nature and without which we can not live as human beings.

The basic principle and ideas of Human Rights has stemed from 3 world famous events which reverberated the corridors of world history. They are (i) American war of Independence 1776, from which bill of right idea generated which led to the development of fundamental right (ii) The French Revolution 1789 and (iii) Russian Revolution and socialist movement of 1915-17. The colossal wastages of wealth and proper, anihilation of millions of people and uprooting millions and millions of people making them evacuee in the 1st and 2nd world war also led to development of idea of Human rights and fundamental freedom to protect the human civilisation and the mankind from fear of war, tyranny, exploitation and deprivation. The worst kind of

brutalization of human rights in the First and Second World war the main motivating factor in pursuing the goals of protection of human rights in the post-war period.

Article 55(1) of the charter of the United Nations embodies the theme of Human Rights. The Declaration known as Universal Declaration of Human Rights was adopted on December 10, 1948 by the General Assembly of United Nations with the hope that ultimately nations will embody these human rights in the constitutional documents. The General Assembly proclaimed :

This Universal Declaration of Human Rights as a common standard of achievement for all people of all nations, to the end that every individual and every organ of society, keeping this declaration constantly in mind, shall strive by teaching and education to promote respect for these freedoms and by progressive measure, national and international, to secure universal and effective recognition and observance, both among the people of member states themselves and among the people of territories under their jurisdiction.

It was hoped that the Declaration would be embodied into a covenant of human rights creating international norm. It took 28 years for achieving that goal. In the year 1976 two covenants (i) The International Covenant on Economic, Social and Cultural rights, (ii) The International covenant on civil and political rights.

There is optional protocol to the second covenant.

The Protection of Human Rights Act 1993 (Act 10 of 1994)

To implement the principles enunciated through the universal declaration of Human Right 1948 and subsequents of 1976 i.e. economic cultural and social right and civil and political right, the Government of India enacted an Act in 1993 in the name, Protection of Human Rights to provide for the constitution of National Human Rights Commission and State Human Rights Commission in states and Human Rights Courts for better protection of Human Rights and for matters connected therewith and incidental thereto.

11.2 Human Right Agencies

(i) National Human Rights Commission

The Central Government shall constitute a body to be known as the National Human Rights Commission. The Commission shall consist of :

- (a) A chair-person who has been a chief justice of the Supreme Court of India.
- (b) One member who is or, has been, a judge of the Supreme Court.
- (c) One member who is or, has been the chief justice of a High Court.

(d) Two members to be appointed from amongst persons having knowledge of or, practical experience in, matters relating to human rights.

The chair persons of National Commission for Minorities, the National Commission of scheduled castes and scheduled tribes, the National Commission for women shall be deemed to be members of the commission for discharge of functions.

There shall be a Secretary General who shall be the chief executive officer of the commission and shall exercise such powers, and discharge such functions of the commission as it may delegate to him.

The head quarters of the Commission shall be at Delhi and the Commission with previous approval of the Central Government establish office at other places in India. The chair person shall hold office for a term of five years from this date. On which he enters upon his office or, if he attains the age of seventy years, whichever is earlier.

The President of India, by notification in official gazettee appoint the chairperson on recommendation of a committee headed by the Prime Minister of India.

Functions :

The commission shall perform all or any of the following functions, namely :-

- (a) inquire, suo motu or, on a petition to it by a victim or, any person on his behalf into the complaint of (i) violation of human Rights (ii) abatement thereof ; or, (ii) negligence in the prevention of such violation by a public servant.
- (b) intervene in any proceeding involving any allegation of violation of Human Rights pending before a court with the approval of such court.
- (c) Visit under intimation to the state government, any jail or, any other institution under the control of the state government, where persons are detained or, lodged for purpose of treatment, reformation or, protection to study the living conditions of the inmates and make recommendations there on.
- (d) review the safeguards provided by or, under the constitution or, any law for the time being enforced for the protection of Human Rights.
- (e) review the factors, including acts of terrorism, that inhibit the enjoyment of human rights and recommend appropriate remedial measures.
- (f) study treaties and other international instruments on human rights and make recommendation for their effective implementation
- (g) undertake and promote research in the field of human rights.
- (h) encourage efforts of non-governmental organisations and institutions working in the field of human rights.

Powers relating inquiries :

The Commission shall have all power of a civil court trying a suit under the code of civil procedure 1908 and in particular in respect of the following matters :-

- (a) Summoning and enforcing the attendance of witness and examining them on oath :
- (b) discovery and production of any document
- (c) receiving evidence of affidavit
- (d) requisitioning any public record or, copy there of from any court or, office :

The Commission shall be deemed to be a civil court and when any offence is described in section 175, section 178, section 179, section 180 or, section 228 of the Indian Penal code is committed in view of presence of the commission, the commission may after recording the facts constituting the offence and the statement of the accused as provided in the criminal procedure code 1973 forward the case to a magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case has been forwarded to him under section 346 of the code of criminal procedure code 1973.

The High Court, the Supreme Court and other court are supposed to provide necessary help assistance and cooperation of the Human Rights Commission in all matters of inquiry. The public records demanded by National Commission or the State Commission of Human Rights from any court ought to be provided for necessary discharge if functions of the Commission in compliance with the protection of Human Rights Act 1993.

Every proceedings before the commission shall be deemed to be a judicial proceeding within the meaning of sections 193, 228, 196 of the Indian penal code.

Investigation

The commission may for the purpose of conducting any investigation pertaining to the inquiry, utilise the services of any officer! Police officer or, investigating agency of central government or, any state government with the concurrence of the central government or the state government as the case may be. And for this purpose the commission may

- (a) summon and enforce attendance of any person and examine him;
- (b) require the discovery and production of any document and
- (c) requisition any public record or, copy there of from any office.

The police has got responsibility to assist on any matter the commission so require and carry out the order of the both state and national commission of human rights for the purpose of the following :-

- (a) issuing summons to the respective person, persons or, institutions

- (b) carrying out order of the commission with regard to the enforcement of attendance of witness
- (c) must not show negligence on matters pertaining to the Human Rights Act 1993.
- (d) Must not allow abatement in case of violence of human rights.
- (e) must carryout the order of the commission state or, national for the purpose if effective investigation on complaints lodged before the commission.
- (f) must help the commission by the providing necessary protection as sought by the State or National Commission of Human Rights.

The State or, National Commission after inquiry approach the Supreme Court or, the High Court concerned for such directions, orders or, writs as that court may deem necessary. The commission, state or, national, after inquiry may recommend to the concerned government or, authority for the grant of such immediate interim relief to the victims or, victim or, the members of his family as the commission may consider necessary.

Formation of the constitution of State Human Rights Commission is not obligatory under the law. The State Commission of Human Rights to perform assigned to at by the law.

The State Commission shall consist of a chairperson who has been a chief justice of High Court and hence other four members. A state commission may inquire into violation of human rights only in respect of matters relatable to any of the entries enumerated in List II and List III in the seventh schedule to the Constitution. The chairperson shall held office for a term of five years from the date of his joining or, until he attains the age 70 years.

(ii) Human Rights Courts

For the purpose of providing speedy trial of offences arising out of violation of human rights, the state government may, with the concurrence of the chief justice of the High Court, by notification, specify for each district a court of sessions to be a Human Rights Courts to try the said offences :

Provided that nothing in this section shall apply if :—

- (a) a court of session is already specified as a speical court, or,
- (b) a special court is already constituted.

Special Public Prosecutor

For every Human Rights courts, the state government shall, by notification, specify a public prosecutor or, appoint an advocate who has been in practice as an advocate for not less than 7 years as a special public prosecutor for the purpose of conducting cases in that court.

The commission may also solicit the help of any N.G.O (non-Governmental organization) for the purpose of inquiry and investigation any complain of violation of human rights. They may also be appoint for other purposes as the commission deem for and proper.

11.3 References

- (i) Human Rights and Legal Remedies—Gokulesh Sarma
2. Human Rights and the Law—Paras Dewan & Peeyush Diwan
3. Human Rights and the Law—Justice V. R. Krishna Iyer

11.4 Exercises

- (i) State the importance and significance of the Universal Declaration of the Human Rights on 10th December 1948.
- (ii) State the Constitution of the National Human Rights Commission vide the Protection of Human Rights Act 1993.
- (iii) State the major functions of the states and the National Human Rights Commission.
- (iv) State the role of police and other courts in implementation of Human Rights as proclaimed by the protection of Human Rights Act 1993.
- (v) State the constitution of National and State Human Rights Commission.
- (vi) State the functioning pattern of National and State Human Rights Commission.
- (vii) Give examples of some of the Human Right Violation Cases.