

- **UNIT X –**
- **PAROLE & PROBATION OF OFFENDERS**

- **Contents –**
- Concept of Parole
- Parole & Probation compared
- Origin of Parole
- Parole in India
- Conditions of Parole
- Parole Violation
- Essentials of Ideal Parole System
- Concept & Object of Probation Law in India
- The Place of Probation in Penal Policy
- Public Participation in Probation.

- **Parole –**
- Parole is a release from prison after part of the sentence has been served, where the prisoner agrees to certain prior to the completion conditions prior to the completion of the maximum sentence period.
- Parole has emerged as one of the **most acceptable form of correctional device in modern penology**.
- It has been universally recognised as one of the most appropriate methods of treatment of offenders for their **reformation & rehabilitation** in the normal society after the final release.
- It helps in **reducing over-crowding** in prisons.

- **Concept of Parole –**
- Historically, parole is a concept known to **military law** & denotes **release of a prisoner of war on promise to return**.
- These days parole has become an integral part of the **Anglo-American criminal justice system**, inter-twined with the evolution of changing attitudes of the society towards crime & criminals.

- **Definition of Parole –**
- **French Phrase – “je donne ma parole** which means **“I give my word”**.
- The word ‘Parole’ comes from the French word **“parole”** meaning **‘voice or spoken words’**, while the dictionary definition is **‘word of honour’**.
- The term ‘parole’ was first coined in a correctional context in 1847 by **Samuel G. Howe**, a Boston penal reformer.

- **1) Dr. Sutherland –**

- It is the act of releasing or the status of being released from a penal or reformatory institution in which one has served part of his maximum sentence, on condition of maintaining good behaviour & remaining in the custody & under the guidance of the institution or some other agency approved by the state until a final discharge is granted.

- **2) Donald Taft –**

- “Parole is a release from prison after part of the sentence has been served, the prisoner still remaining in custody & under stated conditions until discharged & liable to return to the institution for violation of any of these conditions.

- **3) J.L. Gillin –**

- “Parole is the release from a penal or reformatory institution, of an offender who remains under the control of correctional authorities, in an attempt to find out whether he is fit to live in the free society without supervision.

- **Meaning of Parole –**

- Parole is the conditional release of an offender who has already **served a portion of his sentence** in a correctional institution.
- While on parole, the released prisoner **remains in the custody & under the supervision of the paroling authority**.
- Parole is essentially an executive function & instances of release of detenues on parole were literally unknown until this Court & some of the High Courts in India in recent years made orders of release on parole on **humanitarian grounds**.

- Parole is taken as an **act of grace & not as a matter of right** & the convict prisoner may be released on condition that he abides by the promise.
- It is a **provisional release** from confinement but is deemed to be a part of the imprisonment.
- Release on parole is a wing of the **reformatory process** & is expected to provide opportunity status of the prisoner.

- Rules are framed providing supervision by parole authorities of the convicts released on parole & in case of failure to perform the promise, the convict released on parole is directed to surrender to custody.
- The period of parole may be as long as the time the prisoner would otherwise have served in the institution or it may be terminated earlier.
- Parole ideally includes treatment in the form of supervision, guidance & assistance.

- **Relevant Cases –**
- **Smt. Poonam Lata v. Wadhawan & Others (1987)**
- The Supreme Court has clarified that parole is a **grant of partial liberty or lessening of restrictions** to a convict prisoner, but release on parole does not, in any way, change the status of the prisoner.

- **Avtar Singh v. State of Haryana (1999) –**
- The Supreme Court held that generally speaking, the act of granting parole is an **administrative action** & parole is a form of temporary release from prison custody, which **does not suspend the sentence of the period of detention**, but provides conditional release from the prison & **changes the mode of undergoing the sentence.**

- **Main Objectives of Parole –**

- Main Objectives of parole technique as stated in the Model Prison Manual are -
 - 1) To enable the inmate to maintain continuity with his family life and deal with family matters.
 - 2) To save the inmate from the evil effects of continuous prison life &
 - 3) To enable the inmate to retain self-confidence & active interest in life.

- In India, the grant of Parole is largely governed by the rules made under **the Prison Act, 1894 & Prisoners Act, 1900**.
- Each of the States has **its own parole rules**, which have minor variations with each other .
- There are two types of parole, **custody & regular**.
- The custody parole is granted in **emergency** circumstances like death in the family, serious illness or marriage in the family.
- Regular Parole is allowed for a maximum period of one month, **except in special circumstances**, to convicts who have served at least one year in prison.

- **Grounds for Granting Parole –**
- I) Serious illness of a family member.
- II) Accident or death of a family member.
- III) Marriage of a member of the family.
- IV) Delivery of child by wife of the convict.
- V) Maintain family or social ties.
- VI) Serious damage to life or property of the family of convict by natural calamities.
- VII) Pursue filing of a Special Leave Petition.

- Certain categories of convicts are **not eligible** for being released on parole like prisoners involved in offences against the State, or threats to national security, non-citizens of India etc.
- People convicted of murder & rape of children or multiple murders etc. are also exempted **except at the discretion of the granting authority**.

- Selection for parole is based on **two separate considerations** -
- I) More or less arbitrary because it is usually fixed by statute.
- II) Entirely discretionary involving a decision & a calculated risk by the Parole Board.

- The offender paroled has to be kept under **close surveillance by the police** so that he does not relapse into the commission of crime.
- Even though the paroled offender is not in physical confinement, for all practical purposes he is a person sentenced & every of his movement of him has to be **closely monitored** so that his associations & his activities which perpetrate crime can be mitigated.

- **Obligations on the parolee –**
- 1) The paroled person should **hold the permit** always & should produce on being tendered by any police officer or magistrate or any other competent authority.
- 2) He shall **not associate** with notorious bad characters, ruffians & anti-social elements.
- 3) He shall **not indulge in coercing** any of the witnesses or complainant to adduce evidence in his favor.

- 4)He shall **report** any change in the address or his movement & leaving the locality or jurisdiction which is specifically prescribed in his behalf.
- 5)He shall also **obey** all laws & public ordinances.
- 6)He shall **not indulge** in alcoholism, intoxicating beverages & narcotics.

- **Merits of Parole -**

- 1) It creates hopes among other prisoners.
- 2) Once you have been released on parole, there is the opinion of the society is liberal.
- 3) Securing family life of the parolee.
- 4) It eradicates over burden of the jails.
- 5) It is also economical to the State. The cost of expenditure of parolee also decreases.
- 6) It creates threats on the mind of the parolee to maintain good conduct in the society.

- **Demerits or Disadvantages of Parole -**

- 1) If any negligence in the selection of the parolee, it results in serious consequences.
- 2) Parole Board is bound to act on the aid & advice of the Jail Authority.
- 3) It is not necessary that the prisoners who are maintaining their good conduct in the prisons will maintain their good conduct in the society.
- 4) Political interference.
- 5) Treatment & doubtful behaviour by the society makes him impediment in his character development.

- **Judicial Trend on Parole System –**

- The Indian Courts have generally favoured the view that, the prisoners who have been incarcerated or kept in prison without trial for a long time, should be released on parole to maintain unity of the family.

- **Relevant Cases –**
- **1) Hiralal Mallick V. State of Bihar, 1977**
- The Supreme Court held that, granting of parole for reasonable spells is subject to sufficient safeguards ensuring prisoner's proper behaviour outside the prison & prompt return inside on completion of parole term.
- **2) Hari Singh V. State of Haryana, 1993**
- The High Court held that, denial of parole on flimsy ground that the prisoner's release would endanger the public order was not justified.

- **3) Dharamvir V. State of U.P., 1979**

- The Supreme Court considered the desirability of release of long term prisoners on parole at regular intervals so that they are not totally cut off from the society. (murder convict)
- The court allowed such prisoners to go on parole for 2 weeks once in a year throughout the period of imprisonment, provided they behaved well while on parole.

- **4) Gurdeep Bagga V. Delhi Administration, 1987**
- Rejection of petition by HC by life convict for parole on the plea of illness of mother because the petitioner was earlier continuously on parole for more than 2 years & had 2 elder sisters to look after ailing mother.
- However the SC took a lenient view & recommended annual leave for life convict to maintain unity of family.

- **5) Ramamurthy v. State of Karnataka, 1997**
- The SC observed that granting of parole could be used as a tool to reduce overcrowding in prisons.
- The Court referring the recommendations by Mulla Committee pleaded for liberal use of parole system.

- **Considerations of Parole –**

- The purpose of parole is not leniency towards the prisoner but to seek his rehabilitation in future life. The system involves two considerations, namely –
 - I) watchful control over parolee, and
 - II) constructive help and advice to parolee by securing him suitable work.

- **Procedure for Parole –**

- 1. A convict seeks parole & files a petition regarding the same.
- 2. Jail authority (Superintendent) asks for a report from the police station that had made the arrest.
- 3. A report including all the necessary papers like case history of the convict, his behaviour in the prison, his medical report (in case of illness being a reason for parole) are collected by the Superintendent.
- 4. The report is then sent to the Deputy Secretary, Home (General), State Government who decides on the application either accepting or rejecting it.

- In some States, the application of the parole along with the detailed police report & recommendation is sent to the Inspector General of the Prison, which is further forwarded to the District Magistrate.
- The District Magistrate along with the consultation of the State Government takes the decision of either accepting or rejecting the application of the Parole.

- **Parole Violation –**

- The release of a prisoner on parole though meant for his own rehabilitation, may not necessarily always be a success.
- The parolee may deviate from the conditions on which he was released. This results into parole violation & he is liable to be returned to the prison or the institution from which he was paroled out.
- In parole violation cases, **a warrant of arrest** is issued & served to the parole-violator & he is finally arrested & brought back to the prison or the institution by the parole authorities without the necessity of a fresh trial in his case.

- He is then given a parole-violation hearing & offered every opportunity to defend his case in person or through a counsel.
- If he is unable to justify his conduct, he is made to undergo the **unexpired term of his sentence**.
- If he has violated parole conditions by committing another crime, he shall be tried for the **new offence & sentenced accordingly**. But he shall not be considered for parole second time i.e. while undergoing a term of sentence for his subsequent offence.

- Parole violators are denied the benefit of earning good time after their return to prison to serve the remainder or the unexpired period of their sentence.
- **The Prisons Act, 1894** expressly provides that if any prisoner fails without sufficient cause to observe any of the conditions on which his sentence was suspended or remitted or furlough or release on parole was granted to him, he shall be deemed to have committed a prison offence **u/s 48-A of the Act**. Such parolees shall be proceeded against under the appropriate law for parole-violation.

- **Parole & Furlough -**

- Parole & furlough are parts of the penal & prison system for humanising prison administration but the two have different purposes.
- Furlough is a matter of right but parole is not.
- Furlough is to be granted to the prisoner periodically irrespective of any particular reason merely to enable him to retain family & social ties & avoid ill-effects of continuous prison life.

- The period of furlough is treated as remission of sentence.
- Parole, on the other hand, is not a matter of right & may be denied to a prisoner even when he makes out sufficient case for release on parole if the competent authority is satisfied on valid grounds that release of a prisoner on parole would be against the interest of society or the prison administration.

- **Essentials of an Ideal Parole System –**
- 1) The supervision as well as guidance & assistance to parolees so as to make the system useful to the society in general & the parolees in particular.
- 2) Before release on parole, the parolees must be thoroughly prepared for parole administration.
- 3) The selection of prisoners for granting parole should not be on the basis of particular category of offenders nor the length of his sentence, but his suitability to respond favourably to rehabilitative processes & the fact of his social re-adjustment.

- 4) The parolees must be assured **an honourable employment & favourable surroundings** at the time of their release on parole. This will inculcate hope, confidence & social responsibility in them. It would also help them in overcoming their inferiority complex for being ex-convicts.
- 5) Since the parolees have to be rehabilitated within the society through various social agencies, it is desirable that the parole authorities should seek **active co-operation of the public** in this task.

- 6) Parole Boards should be completely **free from political pressures** & only persons of **proven ability & integrity** should be inducted in these boards. They should be well qualified full-time officials.
- 7) The staff associated with parole agency should also be **whole-time workers**. Experience also should not be the criterion for selecting field officials but well qualified & trained personnel should be recruited for this job.

- **Probation –**
- Probation is a way of sending good idea in the mind of offenders. It is probably the **first stage of the correctional scheme.**
- The object of probation is **to keep delinquent away from evil consequences** & offer him an opportunity leads socially useful life without violating the law & as of all methods of treatment is the **ultimate rehabilitation of the offender in the community.**

- **Concept & Object of Probation –**

- The term ‘probation’ is derived from the Latin word ‘**probare**’ which means ‘**to test**’ or ‘**to prove**’.
- Etymologically, probation means ‘**I prove my worth**’.
- Probation is one of the measures which may be used by Courts as an improved form of non-custodial alternative in place of incarceration. This correctional device is being increasingly used in modern times.

- **Relevant Case-**
- **Ramji Missar v. State of Bihar, (1963)**
- **The Supreme Court** held that the Probation of offenders Act, 1958 provides for the release of offenders on probation or after due admonition & for matters connected therewith.
- The purpose of this Act is **to stop conversion of youthful offenders into stubborn criminals** as a result of their association with hardened criminal of mature age in case of youthful offenders are sentenced to undergo imprisonment in jail.

- It is used as a **correctional device/measure**.
- It aims at **rehabilitation of offenders** by returning them to society during the period of supervision rather than sending them into an unnatural & socially unhealthy atmosphere of prisons.
- The offender is allowed **to remain in the community & develop as a normal human being in his own natural surroundings**.

- **Definition of Probation –**
- **1) Don Gottfriedson –**
- Probation is a procedure by which a convicted person is released by the court without imprisonment subject to conditions imposed by the court. It is a part of the decision – making process of judges at the time of sentencing.

- **2) Donald Taft –**

- Probation is the postponement of final judgment or sentence in a criminal case, giving the offender an opportunity to improve his conduct & to readjust himself to the community, often on condition imposed by the court & under the guidance or supervision of an officer of the court.

Comparison between Probation & Parole –

• 1) Historical Evolution -

- The system of probation owes its origin to John Augustus of Boston (U.S.A.) around 1841.
- Whereas the system of parole came into existence much later somewhere around 1900.

• 2) Punitive Reaction -

- In probation, there is no punitive reaction to the crime. It is purely a treatment of offender.
- But in parole, the punitive reaction to the crime is present. Few part of sentence is served i.e. punitive.

- **3) Definition -**

- It is the release of the offender, from police custody, subject to the good behaviour of the convicted offender under specific conditions. It is the supervision in which the offender has to follow certain rules prescribed by the court, under the supervision of the probation officer.
- Parole is meant the grant of release to the convict, only when he has served a part of his punishment in jail.

- **4) Nature -**

- Probation is judicial in nature
- Parole is quasi-judicial in nature & civilized or respected members of society constitute Parole Board.

- **5) Sentence -**

- In probation, no formal penalty is imposed, if imposed is not executed.
- Parole is granted after serving a part of sentence in prison.

- **6) Substitute for Punishment -**
- Probation is granted as a substitute of the punishment.
- Parole is granted after completing a part of sentence.
- **7) Punishment & Treatment -**
- Probation is only a treatment in which the sentence is suspended.
- Parole implies both punishment & treatment.

- **8) Stage -**

- Probation is probably the first stage of correctional scheme
- Parole is the last stage of correctional scheme.

- **9) Stigma or Disqualification -**

- No stigma in case of probation because there is not use sentence.
- A prisoner released on parole suffers stigmatization as a convicted criminal in the society.

- **10) Eligibility -**

- Probation is awarded to those persons who have no prior criminal record so far & also in case of non-violent crimes.
- Parole is allowed to those criminals which are already in jail & also available to serious offenders, who pursue good conduct, during the term of their sentence.

- **11) Reporting by Offender -**

- A probatee has to report to the probation officer. It's failure in reporting may lead to resentencing to jail.
- The parolee has to report to the parole officer, in case of his default, without any reasonable cause, he is sent back to the jail on the grounds of the original sentence.

- **Origin of the Probation System –**

- The history of the probation can be traced back to the medieval concept of benefit of clergy surviving in England & America.
- The privilege of ‘**Benefit of Clergy**’ permitted clergy & other literates to escape the severity of the criminal law.
- It meant suspension of the execution of sentence for sometime which could gradually be extended to suspension of sentence for an indefinite period as long as the delinquent behaved well.

- **1) Probation in U.S.A. –**
- In America, **John Augustus**, a shoe-maker of Boston in 1841 volunteered to stand bail for a person charged with drunkenness in a local court. The defendant showed the signs of reform. The Judge ordered a nominal fine & released the offender.
- Fascinated by this incident, Augustus started standing bail for more & more offenders such as **women, juveniles & adults**. He took upon himself the duty of helping & supervising them during the period of bail. He saved **over 2,000 persons** from the rigours of prisonisation. It marked the beginning of the probation system.

- Augustus also tried to send the juvenile delinquents to school & to arrange lodging & employment facilities for them. He also maintained up to date record of them. It provided a blue-print for modern probation system.
- Later, Father Cook of Boston also took keen interest in the rehabilitation of young offenders. He drew attention of the courts to the fact that these offenders were mostly the victims of their circumstances and were corrigible if placed under proper supervision & guidance.

- In 1878, first Probation Act was enacted in Massachusetts State & Probation Officers were appointed. This probation programme was further extended to other cities of America also.
- In America, the benefit of probation was given to-
 - I) Crimes of violence
 - II) Sexual offences
 - III) Recidivists
 - IV) Crimes against Government or treason etc.

- **2) Probation in U.K. –**
- In 1907, in U.K., Probation of Offenders Act was enacted to give statutory recognition to the probation system.
- By this Act, an offender could be discharged on probation either after certain sentence being imposed on him or even before its imposition. It may be **conditional or absolute depending upon the factors such as antecedents, character, age, sex, physical & mental condition and the circumstances etc.** Probation Officers were separately appointed for adults & children.
- With the enactment of the Criminal Justice Act, 1948, probation system was extended throughout England.

• **3) Probation in European Countries –**

- In France, Germany & Russia probation has been adopted as a measure of social defence.
- In Austria, probational remedies are mandatory for offenders under 18 years of age.
- Greece adopted probation as a correctional measure in 1951.
- Similar system is adopted in Ireland, Israel, Italy, Switzerland, Netherlands & other European countries.

• **4) Probation in Sweden –**

- Sweden is internationally known for its progressive penal philosophy & initiative in the correctional field.
- Only 20% of the total offenders are sent to prison while the remaining 80% are subjected to correctional treatment methods as probation, parole, half-way houses, work centres etc.
- Even the cases of prisoners who are sent to prison are **constantly reviewed** so that they can be transferred to non-institutional service as soon as possible.
- The supervision of probatee is entrusted to the **commission of trust** consisting of volunteers who seek advice from probation officer.

- **Merits of Probation -**

- 1) It is most useful in the case of juvenile delinquents.
- 2) It gives hope for the rehabilitation of the offender who has not committed the offence.
- 3) Probation is a way of sending good idea in the mind of offenders.
- 4) It is helpful for both hardcore & youthful offenders.
- 5) It helps in reducing the crowding in the jails.

- **Demerits/Disadvantages of Probation –**

- Following are the demerits or disadvantages of probation -
 - 1)The threat of further punishment should also be incurred in the mind of prisoners. Here there is no threat in the mind of prisoner.
 - 2) It decreases the average penalty.

- **Probation in India –**
- In India, probation is used as **an institutional method of treatment** which is a necessary appendage of the concept of crime.
- The object of probation is **to correct the effects of causative factors of criminality in the controlled atmosphere** of probationary supervision, utilising the helpful factors in the offenders personality, his family situation, attitude etc.
- This approach helps the probatee **to restructure his life-pattern with renewed vigour & adjust himself in the community through healthy inter-personal relationships.**

- **Historical Perspective of Probation Law in India-**
- In India, probation received statutory recognition for the first time in 1898 through **S. 562 of CrPC, 1898**. It provided that, the first offender convicted of theft, dishonest misappropriation or any other offence under IPC including **less than 2 years** imprisonment could be released on probation of good conduct at the discretion of the court.
- Later, the **Children Act, 1908** also empowered the court to release certain offenders on probation of good conduct. It was substituted by the **Juvenile Justice (Care & Protection of Children) Act, 2000**.

- Consequent to the **Indian Jail Reforms Committee's Report (1919-1920)**, the first offenders were to be treated more liberally & could even be released unconditionally after admonition.
- The release of offenders was extended not only to the offences under IPC but also to the offences under special enactments. Consequently, a number of remand homes, rescue homes, certified schools & industrial schools were established in Bombay, Madras & Calcutta.

- **The Government of India in 1931**, prepared a draft of probation of offenders bill but it was failed to receive recognition.
- **During 1937 – 1954**, a number of Provinces enacted law relating to probation of offenders which included Madras, Bombay, West Bengal, Hyderabad etc.

- After independence, certain concrete steps were taken to popularize probation as a correctional measure of offenders.
- A **Probation Conference** was held in Bombay in 1952 on the advice of **Dr. Reckless**. It was a milestone in the progress of probation law in India. Consequently, **All India Jail Manual Committee** was formed. The Committee in its report of 1957 pointed out the need of central law on probation.
- Consequently, on **May 16, 1958** the **Probation of Offenders Act** was enacted.

- **The Probation of Offenders Act, 1958 –**
- This Act contains elaborate provisions **dealing with probation of offenders**, which made applicable throughout the country.
- This Act is applicable to **juveniles as well as adult offenders also**.

- This Act covers the offences under IPC as well as other special acts such as the Prevention of Corruption Act, prevention of Food Adulteration Act, the COFEPOSA, the NDPS Act etc.
- **S. 11 of this Act** widens the scope of competence of courts by enabling them with powers of awarding probation in appropriate cases, in appeals & revisions, cancellation of probation etc.

- **Procedure for Probation –**
- A probation order may be made **by a court at the time of pronouncement of the judgment.**
- The Judge may make such an order straightway without calling for a report from the probation officer or he may prefer to call a report.
- While granting the order of probation, the court must record a clear finding about the age of the offender after weighing the necessary evidence.

- The Court may obtain the probation report before the trial is completed.
- **In warrant cases**, the probation officer is directed to prepare probation report of the offender right at the time of framing of charges.

- **Other Enactments –**

- Beside the probation of offenders act, 1958 certain other acts also provide for probation of offenders.

- **I) S. 27 of CrPC, 1973 –**

- It provides that, the person below the age of 18 years is guilty of an offence not punishable with death or imprisonment for life can seek benefit of probation.

- **II) S. 360 of CrPC, 1973 –**
- It provides the rationale of protection of young offenders on three principles –
- **A)** Exclusion of certain offences, for which draconic punishment is provided, from the purview of the Probation of Offenders Act, 1958.
- **B)** Fixation of certain age-limit for offenders to be admitted for the release on probation, &
- **C)** Application of probation only to the first offenders.

- **III) The Juvenile Justice (Care & Protection of Children) Act, 2000 –**
- It provides the measures for the custody & control of destitute & neglected children & for the protection & treatment of delinquent children in need of care & protection as also the children who are uncontrollable & victims of one or the other offence .
- It also lays down precisely the procedure to be adopted by the Juvenile Court with regard to the investigation & trial of juveniles.

- It also provides for the **release of offender children on probation of good conduct** & placing them under the care of their parents or guardians or other fit persons executing a bond, with or without sureties to be responsible for good behaviour & well being of the juvenile for any period not exceeding 3 years.

- **The Place of Probation in the Penal Policy –**
- Probation as a **correctional measure** occupies an important place in the **reformatory justice**.
- It seeks to reconcile the conflicting claims of punitive and treatment reactions to the crime.
- The suspension of sentence under probation serves the **dual purpose of deterrence and reformation**.
- It also enables the Probation Officer in **getting deeper insight of the problem of criminals**.
- Probation is **useful to society in general and to the offender in particular**.

- The Place of Probation in the Penal Policy can be studied under following three heads namely –
- **1) Utility of Probation from the point of view of the Delinquent**
- **2) Utility of Probation from the stand-point of Society**
- **3) Utility of Probation from the point of view of Probation Officer**

- **1) Utility of Probation from the point of view of the Delinquent –**
- I) It keeps the offender away from the criminal world.
- II) It indirectly prevents an offender from adopting a revengeful attitude towards the society because of fear of punishment in case of violation of probation law.
- III) It seeks to obviate the evils of institutional incarceration & prevents the offender from contamination and conforming to a criminal career.

- IV) It seeks to socialise the criminal .
- V) It enables the offender to attend to his domestic obligations & assist his family in terms of finance.
- VI) It enables the offender to rehabilitate himself through his own efforts.

- **2) Utility of Probation from the stand-point of Society –**
- I) The probation is an effective method of preserving social solidarity by keeping the law-breakers well under control. So the interest of the society is preserved.
- II) During probation period, the offender is sent to various educational, vocational and industrial institutions to make him ready for securing livelihood to live an upright life.

- III) Whatever work an offender is doing as a probationer, he is contributing to the national economy & he no longer remains a burden on the society.

• **3) Utility of Probation from the point of view of Probation Officer –**

- The probation staff get closer contact with the inmates during his period of probation to get deeper insight into the real causes of crime and suggest remedies for their eradication.
- It enables the officials to study crime in a practical manner.
- It provides the officials an excellent opportunity to serve the community as also the nation.

- **Public Participation in Probation Service –**
- Probation as a measure of social defence must involve active participation of voluntary workers & social service organizations.
- The public representatives should be included in the District-Level Correctional Advisory Boards or Probation Advisory Committees & their co-operation in finalising schemes regarding rehabilitation of probationers, supervision of parolees & after-care of released prisoners be solicited.

- The National Conference on Probation & Allied Measures held in India in 1971 also identified the need for co-ordination of voluntary action in correctional field at the District, State & National level.
- The probation as a correctional measure should provide useful after-care to the offenders & a satisfactory security to the society. Necessarily, it should not only be confined to Probation Officers of the Courts but must also seek active participation of public in the treatment of offenders.

- This attitude will help to soften the attitude of common men towards criminals & they would learn to recognise the worth of a human being underneath the offender.
- It is quite disappointing to note that the public participation in the probation system is completely wanting in India.
- The experience with probation in India has not been very encouraging. Its application is fragmentary & ineffective.
- Except few states, notably, Maharashtra, Gujarat, Tamil Nadu and Andhra Pradesh, probation has remained a matter of speculation & rare application.

- Adult probation has remained fairly neglected & needs to be implemented with rigour & attention.
- The probation in India needs to be restructured to make the system more effective and result-oriented.
- A well-organised team of trained probation personnel having aptitude & real zeal for this kind of work & active co-operation of various agencies such as Welfare Boards, voluntary social workers & correctional institutions can certainly make probation a real success in India.

- **Suggestions –**
- **1.** Probation must be based on **thorough investigation** into the case-history of the offender & the circumstances associated with his crime.
- While treating the probationer, his **physical traits & psychological conditions** must be thoroughly considered.
- The **individualised method of treatment** essentially implies differed treatment of offenders according to their individual needs & personality.

- **2. Prediction Tables** should be compiled & used for planning probation strategies. Such tables may help in anticipating the probable result of correctional treatment on different offenders.
- **3. The merger of juvenile courts with family courts** seems to be an expedient policy because both of them perform functions which are quasi-parental in nature.
- **4. The success or failure of probation in case of juvenile delinquent** largely depends on his home conditions & family surroundings.

- **5.** The S. 5 of the Probation of Offenders Act which provides for **compensation by the probationer** to the victim of his crime is kept in suspended animation.
- **6.** Probation should only be confined to the cases of **juveniles, first offenders & women offenders.**
- **7.** There is an urgent need to extend the system of probation to **rural courts** where there is general lack of social agencies to undertake the task of rehabilitation of offenders.

- **8.** It is generally argued that the system of probation involves **discriminatory processes** & therefore, violates the constitutional provisions contained in Art. 15 & 21 of the Constitution of India.
- To obviate this charge, it is suggested that a **minimum & maximum limit of sentence** may be prescribed under the law & release of delinquent on probation should be in between these two extreme limits depending on his **corrigibility & response to correctional treatment**.

- **9.** The quality of probation service must be improved by making the **service conditions** of the probation staff **more lucrative**. This will attract well-qualified & competent persons to the profession.
- The probation personnel ought to be **specially trained** so that they can discharge their duty more competently.
- **10. International conferences & seminars** on probation & its related aspects may help in popularising this reformatory method of treating the delinquents.

- **11.** A nation-wide uniform scheme of training for probation personnel with emphasis on social-work & rehabilitative techniques can be suggested.
- Since the probation work is quasi-judicial in nature, the incumbents to probation service must be duly qualified in legal & social welfare work.
- **12.** Presently, the work of probation is assigned to different departments in various States. Such as Social Welfare Department, Panchayat Dept or the Home Department.
- It is advisable to have an independent Department of Correctional Services.

- **13. International conferences & seminars** on probation & its related aspects may help in popularising this reformative method of treating the delinquents.
- **14. The co-operation of different social agencies** such as schools, family, religious institutions & other voluntary organisations including Scout-Guides, Girl-Guides, Salvation Army, Welfare Boards, Mahila Ashrams & Nari-Niketans etc. should be solicited so that rehabilitation of offenders may be possible within the society itself.