
UNIT 5 SOCIAL LEGISLATION AND ROLE OF SOCIAL WORKER IN LEGAL ASSISTANCE

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5.0 OBJECTIVES

The main aim of this unit is to provide understanding of social legislations vis-à-vis role of social workers. The present unit is an attempt to make you understand the relationship between social legislations and professional social work. The main focus is on equipping you with the understanding as to how social legislation can become an effective tool and instrument in the hands of the social workers. After studying the unit you will be able to:

- define social legislation and state its need and objectives;
- understand the significance of social legislation as an instrument of social change;
- explain the relationship between social work and social legislation; and
- state the role of a professional social worker in providing assistance to the weak, exploited and vulnerable sections of society covered under the various social laws.

5.1 INTRODUCTION

The Indian Constitution promises equal protection of laws to all citizens . By implication, then we should not only have just laws, but also see that they are justly administered and implemented. Often the laws of the land are out of bounds for the poor and the weaker sections. However, in the interest of justice and welfare, it becomes imperative that special measures are taken to protect these vulnerable and marginalized sections and one such measure is the enactment of special laws which specifically aim at social welfare which we collectively refer to as social legislation.

As a consequence of various technological, economic, social and political factors personal and social disorganisation take place in different forms in our society. To combat the consequences of the disorganisations, these individuals, groups and institutions need special approaches, programmes and treatment and legislation is one of such approach. We have specific legislations for care, protection and treatment of neglected, deviant and victim children, control and eradication of begging, welfare services for prostitutes, adult offenders, marginalized and deprived sections and so on. Social problems like immoral trafficking, juvenile delinquency are products of our system and social workers are the people who address these problems in depth. Social workers have knowledge and skills for access to resources with which they can tilt the balance in favour of those whose interests are otherwise overlooked.

Law can be used as an effective instrument by the social workers. In this process, social workers can play an important role in the delivery of justice especially to the weaker sections. Social work can network with law and help in the implementation of social justice for juveniles, prisoners rehabilitation, prostitutes, SC/ST, poor and needy who are in need of legal assistance. Infact, social worker can carve out a meaningful and constructive role for themselves in the area of social legislation.

5.2 CONCEPT OF SOCIAL LEGISLATION

Legislation is an instrument to control, guide and restrain the behaviour of individuals and groups living in society. Individuals and groups left in absolute freedom may clash with each other in the pursuit of their self interest at the cost of others. They cause grave harm to society leading to chaos. Legislation is one of the many institutions which controls and directs individual action into desirable channels. Others being social customs, traditions, religious prescription etc. Law is a vast subject having many branches. In a broad sense, all laws are social in character, in a narrow sense only those laws that are enacted for the purpose of social welfare are categorized as social legislation. There are several types of legislations such as taxation, corporate, civil, criminal, commercial etc. Social legislation is that branch of law which is an aggregate of the laws relating to the various socio-economic condition of the people. It is a social institution that embodies the social norms created on the initiative of a competent legislative agency. These laws are enacted keeping in view the needs of the time, the circumstances of the nation and its socio-political ideals.

Let us take a look at some of the definitions of social legislation.

Dr. R.N. Saxena defines social legislation as ‘any act passed by the legislature or a decree issued by the government for the removal of certain social evils or for the improvement of social conditions or with the aim of bringing about social reform.

A comprehensive definition of the term social legislation is found in the Dictionary of Sociology by Fairchild. According to this definition social legislation means laws designed to improve and protect the economic and social position of those groups in society which because of age, sex, race, physical or mental defect or lack of economic power cannot achieve health and decent living standards for themselves. Social legislations, according to Prof. Gangrade, involves an active process of remedy by preventing or changing the wrong course of society or by selecting among the courses that are proved to be right. To sum up these definitions social legislation can be defined as special laws which are passed with the special purposes of improving the socio-economic position of the specific groups such as women, children, elderly, scheduled castes, scheduled tribes, physically and mentally challenged, unorganised workers, agricultural and landless labourers and other such vulnerable groups.

Check Your Progress I

Note : a) Use the space provided for your answer.
b) Check your answer with those provided at the end of this unit.

1) Define Social Legislation?

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5.4 SOCIAL LEGISLATION: NEEDS AND OBJECTIVES

The need and importance of social legislation in a Welfare State cannot be undermined. Our Constitution reflects the aspirations of masses to become a welfare state where everyone enjoys the right to live a dignified life and right to the pursuit of happiness are fundamental. In broader sense, everyone in the country men is entitled to have basic human rights such as right to life, employment, work health, education, etc. Now these rights can only be secured through State action. Social legislation gives us a proper formalized legal framework for achieving these goals. It is a known fact that as social order undergoes changes, new problems and demands arise which cannot be allowed to go out of hand. Problems such as juvenile delinquency, new forms of crime, socio-economic injustices, socio-economic inequalities, problems of social security have to be tackled through welfare legislations. It is important to have social legislation to meet the existing social needs and problems. It also anticipates the direction of social change. Thus, Social legislation is needed

- i) to ensure social justice,
- ii) to bring about social reform,
- iii) to promote social welfare,
- iv) to bring about desired social change.
- v) to protect and promote of rights of socio-economically disadvantaged groups of the society.

Objectives of Social Legislation

Social legislation derives its inspiration from our constitution and has the following specific objectives:

- i) removal of discrimination on the grounds of sex, religion, caste, class etc. and promotion of equality to all.
- ii) safeguard the rights of the weaker section such as women, children, elderly, widows, destitute and the backward classes.
- iii) eradication of traditional malpractices and social evils such as untouchability, dowry, child marriage, female infanticide etc.
- iv) provision of social security.

Social legislation is required for (i) protection and promotion of rights, (ii) prevention of individual and social disorganisation, (iii) proactive action, (iv) pioneering social reforms in social institutions and, (v) progressive social values for desired social order. In brief, the main aim of social legislation is to change and reorganise society by improving its social and economic condition. Each individual of the society has to be given equal rights and equal opportunities. Social legislation aims to address social problems through legislative means, and initiates process of social reform and social change based on sound social rules. Since the process of social change in fast social legislation also provides desired direction to changes.

Check Your Progress II

- Note :** a) Use the space provided for your answer.
b) Check your answer with those provided at the end of this unit.

1) State the needs and objectives of social legislation.

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5.4 SOCIAL LEGISLATION AS AN INSTRUMENT OF SOCIAL CHANGE

Is social legislation a tool of social change? There are two schools of thought. Social scientists of one school believe that law in itself cannot lead to change, it can only follow change. Thus it cannot be an instrument of the basic transformation of values and attitudes. On the other hand, there are experts who are of the view that social legislation is an important enabling mechanism of bringing social change. It would not be incorrect to say that law alone, can not be truly effective unless, it is supplemented and supported by public opinion and administrative reforms. Despite its limitations social legislation can be a powerful and effective tool in the hands of the professional social workers to fulfil their commitment to the weaker and the marginalised sections of the society. Let us take a look at and understand its potential for change.

The British rule in India for the first time established the supreme authority of law in social matters, ensuring uniformity in law and social order which India did not have till then. In the last century, we have had a series of legislations intended for bringing about significant changes in the status of women, children, scheduled castes and other such vulnerable groups on the one hand, whereas there were legislations for bringing reform in social institutions like family, marriage etc. on the other. Since Independence a number of social legislations have been passed. We know many of the evil practices such as *sati pratha*, child marriage etc. may have still persisted, had they not been curtailed by timely suitable legislations. Social legislation, beset as it may be with drawbacks, has nevertheless helped us to shelve many of our outmoded traditional customs and practices. For instance law has been instrumental in bringing about a change in the status of women. Equality of sexes has been ensured by our constitution and law has endowed many rights on women at par with men. Today we have legislation which prohibits any discrimination on the ground of sex. A woman can acquire, hold and transfer absolute

property in addition to Stridhana under the Hindu Succession Act 1956. The Act further gives the women the right of succession equal to that of male heirs. Where a Hindu male dies without making a will of his property, his widow, mother, daughters and sons are all classified together as class I heirs and they take one share each.

The Dowry Prohibition Act of 1961 requires the dowry amount to be transferred to the bride within three months from the time of the solemnization of the marriage. This property is her absolute property and goes to her heirs if she dies before receiving it. The reforms in the marriage laws of Hindus have removed many disabilities traditionally imposed on women. It has abolished bigamy and divorce can now be legally claimed by a wife. Child Marriage Restraint Act 1929 has restrained child marriage. In matters of employment, a woman is entitled for equal pay as her male counterparts. A daughter can be given and taken in adoption under the Hindu Adoption and Maintenance Act 1956.

Law also has been instrumental in bringing about structural transformation by abolishing the caste system. Both under the constitutional and statutory law birth into any caste is no longer a barrier to occupational choice. Abolition of untouchability by the Protection of Civil Rights has paved the way for social mobility. Many more such instances can be cited where the changes and reforms are brought through social legislations. Thus, we can say that social legislation has helped in promoting opportunities for the exercise of freedom, dignity and justice to the less fortunate. Our traditions impede change but law can be instrumental in changing traditions and old customary practices.

Check Your Progress III

Note : a) Use the space provided for your answer.
b) Check your answer with those provided at the end of this unit.

1) Do you agree with the view the statement that social legislation is an effective instrument of social change?

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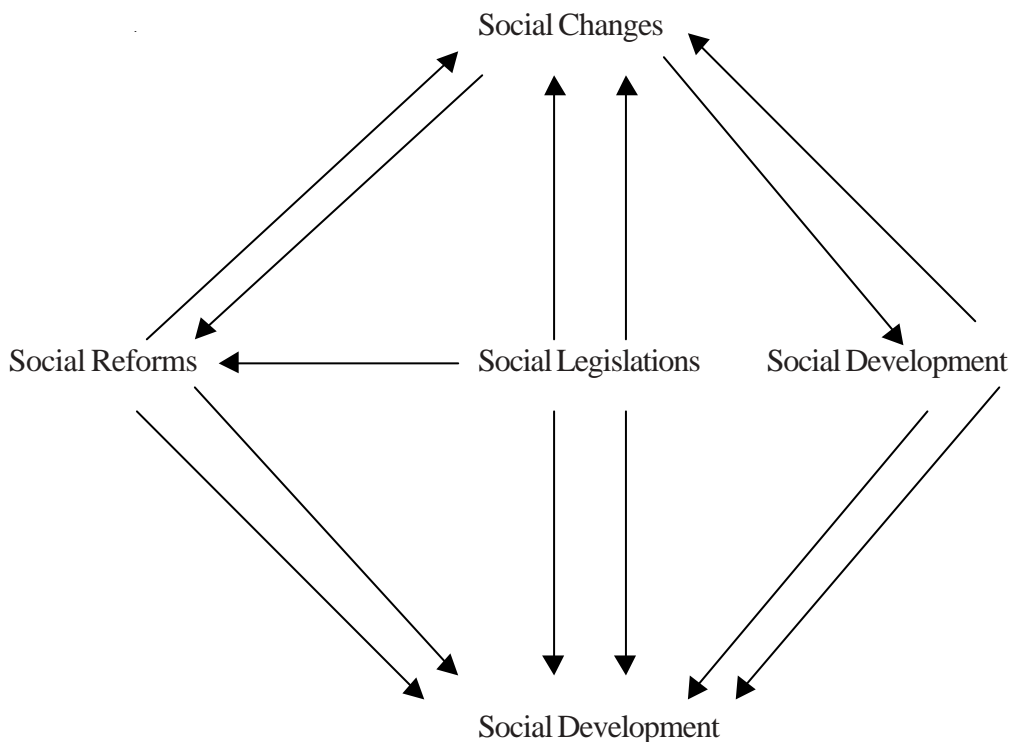
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5.5 SOCIAL LEGISLATION AND SOCIAL WORK

As we have discussed the purpose of social legislations earlier, now we will discuss the relationship between social work and social legislation. Social Work is professional help extended to individual, group and communities. Since social work aims at resolving problems and issues related to structural inequalities, mass poverty, socio-economic injustices and deprivation, the major task of today and in coming days would be to promote social change by empowering people. The International Federation of Social Workers and the International Association of Schools of Social Work defined social work “The social work profession promotes social change, problem solving in human relationships and the empowerment and liberation of people to enhance well-being. Utilising theories of human behaviour and social system, social work intervenes at the points where people interact with their environments”. Principles of human rights and social justice are fundamental to social work.

Social Workers attempt to relieve and prevent hardship and suffering. They have a responsibility to help individuals, families, groups and communities through the provision and operation of appropriate services and by contributing to social planning. They work with, on behalf or in the interests of people to enable them to deal with personal and social difficulties and obtain essential resources and services. Their work may include, but is not limited to, personal practice, group work, community work, social development, social action, policy development, research, social work education and supervisory and managerial functions in these fields. Social legislation can be used by professional social workers as a tool for social advocacy, empowerment to ensure basic human rights, dignity, and conducive environment. In other words, the over all thrust of social work will be on developmental, remedial and rehabilitative dimension with non elitist approach. Thus social legislation works as tool for social reform, social welfare, development and change. The relationship can be explained in diagrammatic manner as given below:



Relationship between social legislation and other social processes

The social worker should be sufficiently equipped with the knowledge of the available sources of relief – medical, economic, psychological, legal – for those who are in trouble Professional social workers whether they have just entered the profession or have been working for a number of years have an indispensable partnership with law. By virtue of the nature of social work and peoples’ expectations as human service profession, legal knowledge is imperative for social workers. They should know the laws connected with everyday matters such as adoption, inheritance, begging, prostitution, offences against women, children, low castes and the like as they will be often required to fall back on their legal knowledge in the process of helping their clients. A social worker working in the field of women welfare must have knowledge about the family laws, the Dowry Prohibition Act, the Prevention of Immoral Traffic Act and other such laws available for the welfare of women. Likewise those working with children must have knowledge about the Juvenile Justice Act and other laws protecting the interests of children. We can, thus say that social legislation which comprises areas of laws fundamental to the welfare rights of the people are essential to the practice of social work.

Irrespective of the field a social worker works, they need to know the application of law to their clients. They should be sufficiently equipped with not only the knowledge of these laws but also the process and procedure as it relates to their practice. Here, we have to understand that the knowledge of law that a social worker must possess is significantly different from the one possessed by the legal practitioners. They use law to empower the vulnerable and disadvantaged sections to reform social institutions, and to ensure social justice rather than to win or lose cases. They need to know about the legislations so that they can use it in the best interests of the clients/agencies. In fact social legislation in social work parlance is the application of the methods of social work especially community organisation, and social action for the promotion of people's welfare and right. If social workers are fully aware of these laws, they can work more easily for the target groups. By knowing these laws, they will be strengthening the efforts of the government in delivering welfare to those in need of it. Munby, mentioned five reasons why social workers need to acquire legal knowledge, (i) to discharge their social responsibilities, (ii) to offer advice and assistance, (iii) to protect the rights of individuals' as clients of social services to practice in an anti-oppressive and anti-discriminatory manner, and (iv) to protect their own position as employees.

Check Your Progress IV

- Note :** a) Use the space provided for your answer.
b) Check your answer with those provided at the end of this unit.

1) Why is the knowledge of social legislation important for social workers?

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5.6 ROLE OF SOCIAL WORKER IN LEGAL ASSISTANCE

There is an interdependence between law and social work which we have examined in the last unit. Madhava Menon says that the entire arena of legal counselling, legal literacy, legal documentation and settlement through Lok adalats and other modes of resolution of disputes is dependent upon the collaborative efforts of law and social work establishments. Recognizing the importance of this intimate relationship for better delivery of legal services, Parliament has provided for social workers taking the role of judges (lay judges) in selected judicial bodies. Enlightened and accommodating team work in the cause of justice is the key to a client being able to receive the full benefit of any legal proceeding. Union and State Governments have constituted rights commissions, vigilance bodies and has provided an elaborate scheme of legal aid for the poor in order to provide access to justice for everyone. Legal aid in India is concerned as not just a representation by lawyers in court proceedings but a movement to empower the people with legal literacy, to mobilize them for legal action and to enable them with free legal aid to settle disputes. In short, social worker has an equally important role in legal aid movement as that of lawyers. Courts and legal aid authorities are increasingly using the social workers as court commissioners to gather evidence in PIL's and to monitor and report on court orders in the matters of relief and remedies.

The terms legal aid and legal assistance are different as they are not one and the same but often used interchangeably. 'Legal aid' originally mean giving technical legal help free to a poor person with regard to his rights under the law. It includes payment of court fees, payment to legal practitioner and other expenses incurred in connection with legal proceeding. Legal assistance on the other hand refers to any advice (oral or written) given to the client as the nature of the case may require. In this section we will take a look at some specific areas of social legislation wherein the social worker can play a significant role in providing legal assistance and the nature of this assistance. We have taken four areas – women, criminal justice, juvenile justice and probation – to demonstrate role of social worker at various levels.

Social Worker and Legal Assistance to Women

Women have been victimized by centuries old traditions in our country, however, their status has considerably improved after Independence. Our Constitutional guarantees equality of sexes in Articles 15 and 16 which grants social favours by exercising positive discrimination. Further, special antidotes through various laws have been given to them so as to make equality of sexes a way of Indian life. However, there is still a great need of legal assistance for women. What we need is a strong lobby of active lawyers, socially concerned persons and groups who can stimulate further legislative action with the help of professional social workers and women welfare organisations. Efforts have to be made to use the judicial process to redress the wrongs done to the women both inside and outside their families even today.

Justice Sujata Manohar opined that social, educational and financial hardships make women specially vulnerable when facing problems within the family such as matrimonial conflicts compelling them to resort to the law. She has outlined some programmes of legal services for women. Not all the aspects of the programme require the participation of trained lawyers. She feels most of the work should be carried out by trained social workers, for most of the basic work, right up to taking the case before the lawyer, social workers with legal training are essential. Trained social workers must precede the lawyers and legal services, to evaluate the need for such a program. Most of the important follow-up will also have to be done by trained social workers. Women victims of crime such as rape, domestic violence face great difficulties in accessing justice as social taboos prevent women from disclosing the crimes. Social workers must keep constant touch with such women who are victims of rape or attempted dowry murder, before, during and after trial. Identifying special problems of women and reaching out to women in need of help and making them take recourse to the legal remedies can be an important task of the social worker. Mumbai has the only city civil court in the country which has associated with its matrimonial work a group of trained social workers in cooperation with the Schools of social work.

Justice Sujata Manohar in a judgment explained that the programmes of legal assistance to women should include the following:

- i) Identifying special problems of women and reaching out to women in need of help.
- ii) Special programmes for reaching information to women regarding their legal rights; this may even involve reaching out to such women as, for example, women in jails, women in mental asylums, women in purdah – and initiating legal action on their behalf.
- iii) Giving relevant information to women regarding their legal rights. This may include giving talks, or the use of the media, printing and distribution of pamphlets or articles giving relevant information in simple language.

- iv) If laws are unsatisfactory, creating a lobby for suitable reforms.
- v) Filing test cases, class action or public interest action in suitable cases
- vi) Making available free or subsidized legal advice and also services of a lawyer of her choice to a woman litigant in a deserving case.
- vii) Providing financial aid to meet out of pocket expenses of litigation.
- viii) Formulating programme for advice and conciliation in family disputes under which the parties to the dispute can be summoned, their problem discussed by trained family counsellors and reconciliation attempted.
- ix) Creating emergency cell where women in urgent need of help can go and, if necessary, stay for some time and receive legal advice and help e.g. women who are subjected to physical abuse, harassed for money or dowry by their in laws, thrown out of their matrimonial homes and need protection for their children.
- x) Providing information desk where apart from legal information, women in distress can get information about women's homes and hostels where they can stay with their children, if required. The desk can also supply information regarding any jobs or training for work available to women.
- xi) Making available a follow-up service to help women after the completion of the court case.
- xii) Establishing a research cell to compile and analyse the data regarding women's problem received at the legal aid centres.

By doing above mentioned activities, social workers can involve themselves in many ways, and use their professional knowledge and skills. Using the case work method, the social workers can give emotional support, counsel

ling and guidance to the victims. With the manifold skills at their disposal they can be a great help to the women in all the programmes mentioned above. Along with these social workers can use other methods also in an integrated manner.

Social Worker and Victims of Immoral Trafficking

Prostitution has been an age old problem. Despite the institutional guarantees and laws such as Prevention Of Immoral Traffic Act (PITA) trafficking in girls and women has been on an alarming increase. In our society where a women is at the receiving end of sexual and domestic violence, it is fairly easy to exploit them. However, what is even more disturbing is the fact that more and more children are being pushed into this trade.

Article 23 of the Indian Constitution makes trafficking in human beings punishable by law. There are also provisions under the Indian Penal Code which aim at controlling this problem. The present act PITA, which has replaced earlier legislation Suppression of Immoral Traffic Act (SITA) has very stringent punishments for brothel owners and especially those forcing children into prostitution. However, the enforcement of the law has been far from satisfactory in controlling the menace of prostitution and protecting the women from sexual exploitation. Often police are hand in glove with the pimps and the brothel owners. While the victims are sent to protective homes the real perpetrators of the crime go scot-free. When raids are conducted and the girls are detained no legal help is offered to them nor any counselling is provided to them. The role of a social worker becomes very important here. Social Workers can provide legal help to such

victims and can build network with different agencies for educations, prevention and rehabilitation of such victims.

Check Your Progress V

Note : a) Use the space provided for your answer.

b) Check your answer with those provided at the end of this unit.

- 1) How can a social worker help victims of trafficking within the framework of the existing social legislation?

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Role of Social Worker in Criminal Justice

The modern concept of reformation and rehabilitation has changed the traditional approach of retaliation and punishment towards the criminals. The aim of any criminal policy is to eliminate crime but this traditional punitive and repressive approach have been gradually replaced by other alternatives such as probation and parole. Our earlier approach based on the premise that people are born with criminal intent has been rejected by the conviction that no one is born as a criminal rather there are other factors as well. Thus, person who committed crime can be reformed and rehabilitated. We shall be dwelling on these concepts later in the unit but let us understand that the benefits of probation and parole are not available to all adult offenders. Our criminal justice system, has limitations as well as drawbacks but our prison administration functions inadequately as centres of reformation. The present prison system suffers from overcrowding, prolonged detention of under trials, lack of proper treatment and rehabilitation programmes. There are still cases where persons are detained for years and may be set free one day but the courts do not in any way help them in their rehabilitation.

The Ministry of Welfare has formulated a scheme for welfare of prisoners that makes provision for counselling and guidance to prisoners and setting up of rehabilitation homes. It includes reintegration of the offenders with the community. When criminal proceedings aim at the prevention, rehabilitation and correction of the offender, a social worker becomes an integral part of this system.

Social casework services become indispensable for the education, social adjustment and for the preparation of the offender for living a normal life. In the practice of social casework in a prison set-up, there are restrictions on personal contacts, which is an essential requirement of casework, nevertheless, there are possibilities for individual work with convicts. Social workers are gradually finding place on the team of prison management. The authoritarian setting of the prison may not be very conducive to case and counselling as the offenders may refuse to cooperate but a skilled worker can overcome these barriers as prisoners are in great need for personal attention and help.

In fact the best time for the social worker to contact with a prisoner is when he or she has just entered the prison. The initial shock of the first day or night in the prison and meeting the other inmates makes the prisoners bewildered, afraid, and often develop

hatred. Talking with the social worker gives the prisoner a chance to discuss the hard realities of prison life, the possibilities for the future, educational and vocational opportunities. Frequently the offender may hide his real feelings and may need time before he or she is able to take advantage of casework service. The main task of the social worker in prison is to help the convicts in exploring their attitudes towards the crimes, sentence and confinement. The social worker can try to help them clarify their thinking about their actions, change their attitude towards society, and develop new plans for their future. Finally the social worker will have a substantial role in preparing convicts for release and return to the community. The social worker can bring to them the insight that after release their chances of success require a definite change in behaviour, which can result only from a more positive attitude towards society. (Friedlander 1954)

After-care services are an integral part of a social worker's responsibilities, which include helping the offender to find his lost moorings in the society, finding employment, and reintegrating him with the family and society. The social worker can also offer services to the families of the offender while he is undergoing sentence. Regular visits by the family members can be helpful in coming to terms with his imprisonment, relieving loneliness and sustaining the morale of the family. Meetings can be organised for the prisoner family and group activities can be encouraged.

Parole

Parole is the release of the prisoner before the expiration of the sentence with the provision that he/she will return to the prison if the conditions of parole are violated. Sometimes the prisoner is put under supervision. The supervision of the prisoner should ideally be carried out by the social worker, who can network with other agencies in the community that will facilitate the adjustment of the prisoner back in the society. A Social Worker can further help the offender in finding employment to support his family, regain his lost self respect and reintegrate with family and the community. For their supervision we require trained and skilled social workers with knowledge of human behaviour, social casework and knowledge of the laws and its procedures.

Check Your Progress VI

Note : a) Use the space provided for your answer.

b) Check your answer with those provided at the end of this unit.

1) What are the services which a professional social worker can provide in a prison set-up?

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Role of Social Worker in Juvenile Justice

Various agencies are involved in managing delinquents viz. the police, the court, the parents. Each one of them look at the problem from a different angle and try to handle it with their own special purposes and according to their own methods and traditions. They concentrate on the specific segment of a problem such as i.e. the delinquent behaviour of the child and ignore other aspects. The role of the social worker becomes

significantly important in juvenile justice as they do not classify the juvenile delinquents as a class or a category but look at each delinquent as a unique individual. Social Workers have to study reasons of deviation in totality of varied institutions like home, neighbourhood, school etc. Social work services are extremely useful in modifying the behaviour of the delinquent and of those around the delinquent or neglected child.

The earliest involvement of social work practice in legal procedures related to juvenile justice required increasing involvement of probation, correction and rehabilitation. Under Juvenile Justice Act 2000, the juvenile court and the child welfare board have been vested with the responsibility of professional collaboration of social work and law in the administration of justice to children in general and delinquent and neglected children in particular. A great reliance has been placed on the case study report of the probation officer for diagnosing the problem and determining the appropriate method of disposing the case by the juvenile courts and juvenile boards. Each juvenile delinquent offers a unique situation which needs to be studied in relation to his local condition, home, school and the neighbourhood. Therefore, in such cases the casework method of social work can be effectively used. The effort can be in the direction of developing attitude and creating conditions, which would be conducive to a moral, decent and healthy living of the juveniles. The efforts should be made in creating attitudinal changes through counselling and thereby creating a happy home situation, better social adjustment, proper facilities of education, training and recreation in the neighbourhood instilling a proper sense of values and respect for laws.

First of all the social worker needs to work with the child directly in order to modify the child's behaviour and attitudes through a series of interventions which can be done as follows:

- accepting the delinquent as he is
- showing a non-condemning and non-judgmental attitude
- establishing a strong client-casework relationship
- being a patient non-blaming listener
- creating an atmosphere wherein the delinquent is encouraged to discuss the reasons of his revolt against the law
- giving emotional support, guidance and advice and making him understand the reasons of his rebellion against the laws
- making him understand the importance of social and legal norms and the consequences of their violation.

At the same time the social worker also needs to work with the family members. Social Worker is often required to make the family members aware of the child's problems. He has to enable the parents to realise how they may have in some way contributed to the problem. A good number of children can be taken care of without being processed by the police or the juvenile courts, through non-institutional services of recreation, education, counselling, craft training, etc. by the family.

As the social worker will have limited funds at their disposal they should explore community resources to meet the demand of the child. Further the social worker needs to network with the various organisations in the community to pool the resources. Even school teachers have a profound influence on the behaviour of the child. They can be interviewed and made aware of the child's problem and with their help and cooperation influence the behaviour of the child. A social worker can do the following tasks :

- (i) Training for the school drop-outs, (ii) Organise legal awareness camps, (iii) Co-ordinate social work with the home, the school , police, courts and correctional institutions, and (iv) examine the existing laws and its implementation and enforcement.

Home Visits and Community Contacts

The importance of family and home environment is well recognised in social work. The home plays the most important part in the development of the attitudes and personality of the child. The child has the basic needs of love, affection, physical and emotional security etc. These needs are primarily fulfilled at home and it is the responsibility of the parents to see that a healthy environment is created at home. Lack of love and continued neglect can lead to delinquency. Delinquency and vagrancy is largely a consequence of maladjustment at home.

The purpose of the non institution services under the Juvenile Justice Act 2000 is to recognize pre-delinquency behaviour at an early stage and by undertaking home visits a social worker can make detailed case study of the client’s situation and identify the causes of delinquency . The social worker observes the delinquent in his family environment and the social interactions that take place. This helps him in developing a fuller diagnostic understanding for appropriate treatment. Home visits and community contacts thus become an effective tool in the whole intervention programme. The child along with the family members be counseled and the aggressive behaviour and faulty attitudes can be modified and changed into positive and healthy attitudes which would lead to better adjustment.

Check Your Progress VII

Note : a) Use the space provided for your answer.
b) Check your answer with those provided at the end of this unit.

1) What role can be played by the social worker in the enforcement of juvenile justice?

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Role of Social Worker in Probation

Probation is a method of dealing with those who violate the law of the land. It consists of the conditional suspension of punishment during which time the offender is under the personal supervision of the probation officer who gives him individual guidance and treatment. It is an extension of the principle of individualized treatment where the punishment is designed to fit the offender rather the offence.

Probation has been seen as a part of the courts. The social elements of probation are three fold: (i) It permits the probationer to live a normal life in the community and to readjust to socially acceptable attitude without being confined during this period to a penal or correctional institution. (ii) It is granted on the basis of a social investigation by the court, assuming that the probationer will be able to live a lawful life. (iii) It is a process of adjustment with the supervision of a probation officer.

Pre sentence investigation report is an essential input in criminal trials and probation officers who are ordinarily social workers generate these reports. Courts depend heavily on them for determination of sentence appropriate to the accuse in question. And when probation with or without supervision is made a part of the sentence, the role of the probation officer becomes central to the whole proceedings. Apart from sentence determination, the treatment of the inmates of prisons and other custodial institutions is a function of social work practice.

It is increasingly recognized that probation is a highly skilled service requiring specific technical training and application of modern scientific casework methods. It is a form of community treatment which permits normal social experience not available in the institutions. It does not disrupt offender's relationship with his family and occupation.

The employment of skilled social workers is required for an effective probation system. Workers must be trained in the casework, in the use of community resources and in understanding the behaviour of the juvenile and adult offender. Probation is not merely giving the offender another chance. It is a systematic assistance in his effort to become a citizen capable of living without coming into conflict with the law and the social rehabilitation of the individual offender is the society's guarantee against future crime. It is supervision and not surveillance. Negatively, it protects the probationer from unwise use of his personal freedom and to that extent it may be regarded as authoritative structure of discipline. But more important are its educational and rehabilitative objectives, which together constitute the treatment the probationer receives. During the home visits; through skillfully conducted interviews, the probation officer gives a chance to the young offender to discuss his personal situation. The officer makes significant efforts to explore the possibilities of making changes in his family, work and general social environment. For this the social worker needs to build up a relationship with the probationer based on understanding and respect. During the period of probation the probationer is helped to sort out his emotional as well as environmental problems.

Check Your Progress VIII

Note : a) Use the space provided for your answer.

b) Check your answer with those provided at the end of this unit.

1) What role can be played by a social worker in probation supervision?

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5.7 LET US SUM UP

Our Constitution promises equality to all. To translate this promise into reality, it becomes imperative for the State to undertake special measures aiming at the welfare of the weak and the marginalised segments of our society. One such measure that the State has taken is the enactment of special laws for improving and protecting the social and economic positions of these weak and vulnerable groups. Social legislation is the branch of law which deals with the drafting and the administration of laws aimed at social

welfare. Social legislation gives us the proper formalised legal framework for achieving our promises of equality and justice.

It aims at removal of discrimination, safeguarding the interests and rights of the weaker sections, eradicating traditional malpractices and social evils such as dowry, child marriage, female infanticide etc. There are differences of opinion regarding the efficacy of social legislation as an instrument of social change. It is true that law alone, unless it is supported by public opinion and administrative reforms, may not produce desired result. However, we cannot ignore the potential of law for social change. It has played an important role in improving the socio-economic status of weaker sections especially women, children, scheduled castes and tribes in pre and post independence India. For instance women have gained considerable legal stature after the passing of Hindu Marriage Act 1856, Child Marriage Restraint Act 1929, Hindu Marriage Act, Hindu Succession Act, Dissolution of Muslim Marriage Act 1939, Prohibition of Dowry Act 1961 etc.

Professional social workers are the people who can use law as effective tool in accelerating this process of change. Legal knowledge then becomes imperative for social workers by virtue of the range of their duties and responsibilities. They should be sufficiently equipped with not only the knowledge of these laws but also the process and procedures as it relates to their practice. A social worker working in the field of women's welfare must have knowledge about family laws, Prohibition of Dowry Act, Prevention of Immoral Traffic Act and other related laws. Likewise those working with children must have knowledge about The Juvenile Justice Act, probation laws, child labour laws etc. Using the knowledge and methods of social work, the social worker can give assistance within the legal framework and thereby support the process of law. They should see to it that laws are properly framed and implemented. The social workers can, thus, play an important role in the delivery of justice.

5.8 KEY WORDS

- Criminal Justice** : machinery, procedures, personnel and purposes which have to do with the content of criminal law and with arrest, trial, conviction and disposition of offenders.
- Delinquent** : a person guilty of anti-social conduct which is considered less serious in nature.
- Juvenile Delinquency** : the anti-social acts of children or persons who are underage. Such acts are specifically forbidden by Law.
- Probation** : a special treatment of a convicted delinquent or criminal whereby his sentence to any penal or correctional institution is suspended due to his good behaviour.
- Social Justice** : the intelligent co-operation of people in producing an organically united community so that every member has an equal and real opportunity to grow and learn to live to the best of his natural abilities.
- Social Reform** : the general movement or any specific result of that movement which attempts to mitigate the evils that result from malfunctioning of the social system or any part of it.

5.9 SUGGESTED READINGS

Gangrade, K.D. (1978), *Social Legislation in India*, Concept Publishing Company, New Delhi.

The Planning Social Legislation : It's Role in Social Commission Welfare, (1956) Government of India, Delhi.

5.10 ANSWERS TO CHECK YOUR PROGRESS

Check Your Progress I

- 1) In a broad sense all laws are social in character, in a narrow sense, only those laws that are enacted for the purpose of social welfare are categorized as social legislation. A comprehensive definition of the term social legislation is found in the Dictionary of Sociology. Accordingly, social legislation means laws designed to improve and protect the economic and social position of those groups in society which because of age, sex, race, physical or mental defect or lack of economic power cannot achieve healthful and decent living standards for them. Social legislation are intended to project and promote basic human right and provides safe guards against discrimination, deprivation and social injustices.

Check Your Progress II

- 1) Social legislation is needed to ensure social justice, to bring about social change, to introduce social reform, and to promote social welfare, development and social empowerment.

Social legislation derives its inspiration from our constitution and has the following specific objectives:

- i) Removal of discrimination on the grounds of sex, religion, caste, class etc. and equality to all.
- ii) Safeguard the rights of the weaker section such as women, children, elderly, widows, destitute and the backward classes.
- iii) Eradicate traditional malpractices and social evils such as untouchability, dowry, child marriage, female infanticide etc.

Check Your Progress III

- 1) There are two schools of thought on this. There are social scientists who are of the opinion that law in itself cannot lead any change it can only follow change as it cannot be an instrument of the basic transformation of values and attitudes. On the other hand there are experts who are of the view that social legislation is an important enabling mechanism of bringing social change.

It is true that law alone, unless, it is supplemented and supported by public opinion and administrative reforms can not be effective. However, social legislation can be a powerful and effective tool in the hands of the professional social workers enabling them to fulfil the social work commitment to the weaker and the marginalised sections of the society. In the last century we have had a series of law bringing about significant changes in the status of women, children, low castes and other such vulnerable groups. Sati Pratha, child marriage etc. may have still persisted had they not been declared illegal by timely suitable legislations. Law has been