

Question: 5

Define the term Probation and discuss the conditions of Probation

1. Introduction:

“Probation is about Changing if you're not ready to change you are ready for Prison.”

Probating system is governed by provisions that allow the release of offenders on probation under certain terms and conditions. Legally, these provisions are recognized as a fundamental to the criminal justice system. Probation is the postponement of final judgement or sentence in a criminal case, giving the offender

an opportunity to improve his or her conduct, often on conditions imposed to improve his or her conduct, often on conditions imposed by the court and under the guidance and supervision of a probation officer after court order. It overcomes rigidity of imprisonment.

2. Defining Probation:

Probation can be defined as

“Release of an offender by the judge instead of sending him to the jail in anticipation that the offender will mind his way and become healthy individual of the society”

3. History of Probation:

It was started in England in middle ages when offenders were conditionally set free in anticipation of good behavior.

John Augustus is said to be the father of probation.

In 1841, he rescued an offender who was convicted on the charge of drinking.

4. Law for Probation:

The law used for probation in Pakistan is Probation of Offenders Ordinance 1960.

5. Who can award Probation.

Probation can be awarded by the following bodies

a. A High Court

b. A Court of Sessions

c. A Magistrate of 1st Class

All the above mentioned bodies hold the authority to award probation.

6. Basic Elements of Probation.

According to an analyst following are the main reasons of probation

a. Postponement of sentence

b. Period of re-socialization for the criminal in the

community.

c. The criminal's observance of the conditions imposed by the court

d. The supervision of the criminal by the probation officer.

7. Duties of a Probation officer:

Following are the duties of a probation officer:

a. Periodic visit of the offender.

b. To ascertain conformance to the condition of bond by the offender.

c. Counselling of the offender

d. Reporting the conduct of offender to head of his department (officer incharge)

8 Conditions of Probation :

There are several different conditions of probation on which a prisoner is released.

i. First time offenders :

It is the condition for awarding probation to an offender that it should be his first crime

ii. Not applicable for death and life imprisonment.
Probation is especially

not applicable for the serious crimes and punishment like death and life imprisonment for male offenders.

It is also not applicable with death for female offender.

iii. Submission of bond:

It is also conditioned in probation that there should be submission of bonds to the effect of not repeating the offence.

iv. Fixed place of residence:

Fixed place of residence or occupation in local jurisdiction is another condition in which the offender cannot go out of that certain boundary limit of a place.

v. Supervision of a probation officer:

It is also conditioned that the offender must be placed under the regular supervision of a probation officer.

vi. Revocation of the order:

If an offender repeats his offence during the time of probation, his probation order will be revoked.

vii. Authority of Court:

The Court can alter the terms and conditions of bond of the offender.

viii. No discharge from conviction:

In case of probation, the offender is not discharged.

from conviction

9. Objectives of Probation:

Following are its main objectives

- i. Reformation and rehabilitation
- ii. Beneficial for society
- iii. Ultimate Good
- iv. Provide a chance to mend ways
- v. Morally obliged

10. Conclusion:

Probation is a very healthy method and activity in criminal justice system of a country. While, the conditions of probation have a very

constructive role in the effectiveness
of a probation and rehabilitation
of an offender.

"The original aim of probation
is to advise, assist and
befriend criminals whom the
court decides to release
on probation."

(Srivastava, S.)