**Probation**

Probation is derived from Latin word *probare* which means “a period of proving or testing”. Probation is a trial period in which the offender character and abilities are tested whether he is good for community or not. It’s a chance for offender to redeem himself. Probation cab be a disposition, a status, a system or a process and is defined as “probation is a sentence of conditional release to the community”. More specifically, probation is defined by the American Bar Association as “probation is a sentence not involving confinement that imposes conditions and retains authority in the sentencing court to modify the conditions of sentence or to resentence the offender if he or she violates the conditions”.

**History of Probation**

John Augustus (1785-1859) is known as the father of probation. He was a shoe maker in Boston and use to sit in front of court. He was of the view that judges are filling the prisons from offenders of petty offenses. According to him, in the month of august 1841 I visited the court room in the morning. I saw an officer entered to the court room followed by a ragged looking man, who took his seat on the bench allotted for prisoners. I doubt that the man is charged in drinking. In a few moments, I found that my suspicions were correct, when the clerk read the complaint, in which the man was charged with being a common drunkard. Before the sentence was passed, the offender told me that if he was saved from the House of Correction, he never again would taste intoxicating liquors. There was such an earnestness in his tone that I determined to aid him, I requested the court to release him on bail. I bailed him on the permission of the court. He was ordered to appear for sentence after three weeks. I take him to home, find job for him and compelled him to avoid intoxicating liquors, he became a sober man. At the expiration of the probation period I accompanied him into the court room. I gave the details of the man; the judge was much impressed and instead of usual penalty he fined him $3.76 which was immediately paid. The man continued sober, and without doubt has been by this treatment, saved from a drunkard’s grave.

The cobbler turned into a social reformer. He formed a society named “Washington Total Abstinence Society”. He died in 1859 and released 1946 criminals ten of them repeated the crime the remaining were rehabilitated. His efforts led to the first probation statute, passed in Massachusetts in 1878. By 1900, four other states had enacted similar legislation, and probation became an established alternative to incarceration.

**Philosophy behind Probation**

Probation is based on the philosophy of advice, assist and be-friend the offender. It is believed that kindness and a helping hand, not state prisons, is more effective way to reform criminals and reduce crimes. The social value of probation is based on the belief that human beings are capable of change, most of the offenders deserves to be given chance to bring constructive changes in themselves and to live a crime free and law-abiding life.

While these are the philosophical underpinnings of probation, several other issues have entered its use as an alternative to imprisonment. First, the prisons are overcrowded and new prisons cost much more economy to build. In this regard, probation is a good alternative to save national economy. Secondly, probation is a correctional approach which keep the first offenders away from core criminals. Last but not the least, imprisonment is viewed as cruel and unusual punishment. Prisons are dangerous places to live. Inmates are physically, sexually, and emotionally victimized on regular basis. Probation is considered to be a more humane form of correctional intervention.

**History of** **in Pakistan**

Probation system in Pakistan has colonial origin. It is one of many colonial legacies in Pakistan. In 1923, the British government of Colonial India modified the criminal procedure code of 1898 and inserted a new section 562 (powers of courts to release certain convicted offenders of good conduct on probation instead of sentencing them to punishment). All India probation bill was drafted in 1931 and circulated to all provincial governments in British India, however, due to political crisis it was not passed. Pakistan enacted probation act in 1960 but was that of 1931 nature. Furthermore, other laws are also passed for probation including Good Conduct Prisoners Probational Release Act, and Probation of Offenders Ordinance.

**Conditions of Probation**

Following are the conditions of probation;

* Good conduct
* Refrain from crime
* A probationer cannot change his job, if he wants to change his job he will have to take permission from the probation officer.
* Regular contact with probation officer
* If a probationer commits another offence during his probation period, more additional requirements and conditions will put upon him.
* Court can anytime call him and send him to prison.

Violation of the conditions of probation will lead to extra punishments. There are three ways through which the violators of the conditions of probation are treated.

* The probationer will have to follow extra conditions.
* Fine the offender up to rupees 1000.
* If the offender cannot pay the fine, the court will sentence him for his original offence.

**Probation process in Pakistan**

Probation is considered as a concession not a right. Laws are more lenient to female offenders. Females can be released on probation in every offence except death penalty and life imprisonment. All the courts, including Court of Judicial Magistrate, Court of Session, and High Court, have the powers to release offenders on probation. The probation officer has the duty to look after the offenders who are released on probation. The process of probation is as follows.

* **Offender appears in the court**

When an individual breach, the police arrest him and house him in the police station. According to the law, the police are bound to present the offender before the court within twenty-four hours.

* **Judge directs probation officer to prepare SIR**

After presenting the offender before the court, sometimes the probation officer appears in the court and request for the release of the offender on probation. The judge directs the probation officer to present the social investigation report (SIR).

* **SIR prepared and presented in the court**

It is the duty of probation officer to prepare SIR. The SIR contains the previous record of the individual and his interaction with people in the community. Probation officer prepare SIR and present him in the court.

* **Probation order issued OR denied**

The judge read the SIR presented by the probation officer. If the judge is satisfied from the SIR, he gives probation orders and release the offender on probation. If, the judge is unsatisfied from the SIR he denies the probation order and send the offender to prison.

* **Released on probation, original sentence suspended or postponed**

When the judge releases the offender on probation, the original sentence is suspended or postponed. Original sentence is the punishment of the offence, according to the law, committed by the offender.

* **Back to community, supervised by probation officer for 1 to 3 years**

The released offender goes back to the community. The probation officer supervises him for 1 to 3 years as prescribed in the probation order. The probationer should have to follow the conditions of probation during the probation period. The probation officer will visit the community for the supervision of probationer as well.

* **Successful completion, original sentence no more applicable**

When the probationer successfully completes his probation period, with following the conditions of probation then he is presented in the court and released completely. The original sentence is no more applicable.

* **No satisfactory change, probation orders violated**

In contrast to the successful completion, if the probation officer is not satisfied from the probationer during the course of his probation period, because of the violation of the conditions of probation by the probationer, the offender is presented in the court with the unsatisfactory report of the probation officer. The court sentences the offender for his original offence and sometimes the offender is extra fined for the violation of probation orders and sent to prison.