

## Social Work Interventions in Criminal Justice System

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### Component-I (B) Description of Module

Items	Description of Module
Subject Name	Social Work
Paper Name	Fields of Practice in Social work
Module Name/Title	Social Work Interventions in Criminal Justice System
Module Id	
Pre-requisites<Expected to know before learning this module>	
Objectives	<ul style="list-style-type: none"> <li>• Understand the various perspectives that guide CJSW</li> <li>• Become familiar with the skills and strategies required to work with involuntary clients</li> <li>• Understand the role of social workers in the police system, juvenile justice system and corrections and after care</li> <li>• Become familiar with the work of social workers within the Indian CJS</li> </ul>
Key words	Social work perspectives, skills and strategies

## **Module 4: Social Work Interventions in Criminal Justice System**

### **1. Social Work in CJS**

Social work within the CJS involves working with involuntary clients. Clients who come into contact with the CJS, especially offender populations, have their rights curtailed by the processes of the law, and they may be referred to a social worker as a part of their rehabilitation process. They may be also legally mandated to meet a social worker. It must be remembered that such clients most of the time have not come into the web of the CJS of their own volition. They are often custodialised against their will. Even when it comes to victim population, often they are forced to reach the CJS for help and they may be in a state of trauma and frustration. Hence, most clients who reach the social worker are not in the best frame of mind to enter into a dialogue and exchange. Criminal Justice Social Work (CJSW) mostly involves working with the police on cases falling under juvenile justice, domestic violence, trafficked women and children, child protection, probation, work in correction institutions, after-care institutions, protective shelters.

Dave et. al. (2012) while advocating a socio-legal practice in social work state that the CJS is the only system where there can be a curtailment of fundamental rights of a citizen to maintain law and order. Often a thin line divides performances of duties and overreach of the State. Social workers work in this context.

In this section, we discuss in brief the various practice perspectives that are relevant in working with involuntary clients who are most of the clients in the CJS setting. They are often referred to a social worker by the system. These may in most cases be people who are not by themselves seeking out a social worker. Within the CJS, a social worker comes across institutionalized populations who would fall under the category of involuntary clients. These include under trial prisoners, convicted offenders, women in protective homes, children in shelter homes, juvenile offenders, destitute women, victims of domestic violence seeking police intervention and/or also shelter, etc.

#### *1.1 Social Conflict Perspective*

With involuntary clients, often, the therapeutic perspectives are bound to fail and the social worker may terminate work even though this group of clients might be the most in need of intervention. The therapeutic perspective or the 'good relationship' model on which traditional social work practice is based, works best in a situation whereby the client voluntarily approaches the social worker for help, and there is a match in objectives of the two of them coming together in the problem-solving process. As opposed to this, in the CJS whereby most clients are 'brought' to the social worker or the client is forced to approach the social worker due to lack of choice, the therapeutic perspective may not work.

The social worker, in such situations, is usually brought under a lot of pressure by the client to concede to his/ her 'demands' in order to engage in a relationship.

One perspective that is better equipped for such a population is the social conflict perspective. *'This view regards 'therapy' as a political process - one that involves the socially sanctioned use of power or influence in a context of conflicting interests between client and some part of his or her social environment'* (Cingolani, 1984, p. 442). Often the first contact between the client and social worker is established because of some deviant or socially unacceptable behaviour, be it in a prison or a setting like a drug rehabilitation centre. There may be a resistance to involvement which stems from refusal to own the problem on behalf of the client.

To begin with, the relationship is to be viewed as a process where the worker defines the client's role through communication. *"The central assumptions of the conflict perspective are that the client is in conflict with some powerful aspect of the social context and that the interaction between social worker and client will deal greatly with conflict. The helper is centrally involved as a political actor and is in some way accountable to the agency or part of society with which the client is in conflict"* (Id. p. 444). Working with involuntary clients is characterised by a conflict situation and not so much about cooperation. An example of a conflict situation might be where a client, an inmate in a women's protective home where good behaviour may be negotiated in exchange for some benefit. The goal is more of controlling the situation. In treatment oriented practice, as opposed to this, there is a client who is mostly seeking help, there is an agreement on mutually set goals and there is collaboration to achieve those goals. Hence such situations require a different set of skills and reading of the situation.

Cingolani (1984) also lays down some positions that a worker may take while establishing a relationship with an involuntary client. Enforcer and Negotiator - The Enforcer role involves explicit use of power to ensure client's compliance. This is especially helpful in settings where a social worker may work as an implementer of rules. The Negotiator on the other hand represents the interests of the society or the social institution and bargains with the client. The Mediator, Cingolani states, is concerned with both society and the client's interest and the quality of interaction between them. The other end of the social conflict perspective is occupied by the Advocate and Coach where there is an explicit identification with client's interests. The main difference in the two is that an advocate publicly acts on behalf of the client while the coach is covertly working. The work involves changing the demand of the 'social context on the client.'

Bargaining and persuasion are two skills that a worker needs while manoeuvring the CJS which we discuss in a later section in more detail. These two also are not popular in social work practice as they may appear unethical. But nonetheless with involuntary clients they are helpful.

## 1.2: Rights Based Perspective

Ping Kwong Kam (2012) explains the rights based approach as an approach “*which puts the clients’ rights at the centre of interest to help address issues of social inequality, discrimination, oppression and social injustice*” (p. 17). Here one needs to be cautious about what rights are and what privileges are. The framework of Universal Rights as laid down under the Universal Declaration of Human Rights or the Constitution of India may be helpful guiding principles here. Jim Ife (2008) in the book *Human Rights and Social Work* elaborates on the human rights perspective. Social work being a value laden profession identifies with the idea of human rights. “*By human rights we generally mean those rights which we claim belong to all people, regardless of national origin, race, culture, age, sex, or anything else*” (Ife, 2008, p. 12). A rights based perspective puts fundamental human rights before specific claims of communities or groups. Even when statements of needs are made they have to be made in the context of rights. “*Rights-based practice is a form of social work where the word ‘right’ is used more than the word ‘need’ in the day-to-day discourse of social workers, and where whenever a ‘need’ is talked about, the rights that lie behind that need are identified and explored*” (Ife, 2008, p. 94). Social work practice following this perspective addresses number of issues like ensuring people access to legal-aid, make sure that clients have adequate representation in court, work on advocacy for clients, etc.

The Social Work definition that we saw in the first module - ‘a practice-based profession and an academic discipline that promotes social change and development, social cohesion, and the empowerment and liberation of people. Principles of social justice, human rights, collective responsibility and respect for diversities are central to social work. Underpinned by theories of social work, social sciences, humanities and indigenous knowledge, social work engages people and structures to address life challenges and enhance wellbeing’ (As approved by the International Federation of Social Workers (IFSW) General Meeting and the International Association of Schools of Social Work (IASSW) General Assembly in July 2014). This definition also acknowledges the principle of human rights and social justice. (emphasis added by author).

Ping Kwong Kam (2012) discusses a six social dimensions framework to revive the focus on social justice in social work which is argued to have been ignored because of more individualized treatment. This is a framework that stresses on social justice and social change. This approach comprises of: *Social concern and consciousness* - need of social workers to be aware of what is happening in the society, *Socially disadvantaged groups as the priority* - continuing the tradition of serving the oppressed and the poor, *Social context*- looking at individual problems within the social context, *Social construction*- here this means that problems of the clients have social causes and are socially constructed, *Social change* – ‘Recognizing the fact that individual or social problems have social causes and that many individual problems are socially constructed, social workers have a special

obligation and responsibility unlike other professionals to work on the community environments, social structures, social policies, and the political systems', *Social equality* - zero tolerance to social inequality and violation of human rights. For example, in a setting of clinical practice the author suggests helping clients deal with problems of discrimination, injustice and oppression. This may not just help overcome inner psychological challenges but larger socio-political changes and empower the clients. The author argues that the human rights perspective to social work will help refocus the practice on the 'social' in social work.

In terms of practice of this perspective, Ife (2008) suggests two ways - inductive and deductive (pp. 152). The deductive approach starts with a statement or understanding of particular rights and then asks 'what does this mean for practice?' The inductive approach, on the other hand, starts with the reality of a practice situation and then asks what are the human rights issues at stake, as a way towards informed practice. Most often social workers are doing both in the field. For example, from a deductive approach, the Constitution is an important text for us while working with in the CJS to understand what rights are being violated and deciding on a course of action. Following an inductive approach, we may come across a case of someone being denied legal-aid and work our way to understand how this is a right and work towards making this available. In the inductive approach, the human rights are not asked in abstract but focussed on a concrete case and what human rights issues a specific case poses.

Various groups and human rights perspective: Women are victims of human rights abuses within the private sphere because of domestic violence, sexual abuse or outside of it where direct personal violence is not involved like getting paid lesser than men. The argument in favour of structural change with a base of human rights then attempts not just to make the present system better but also change the system or structures to make them more in line with human rights. This perspective requires the existing structures of inequality to be addressed through social work (Ife, 2008). Ife (2008) also discusses rights of children and an example is relevant for our present discussion regarding competing claims of rights of a child and a parent which may be faced while working on child welfare- should a child be removed from its parents in the best interest of the child. Here the author suggests favouring the rights of the child as this is a case of an unequal power relationship where the children are less powerful. The right of a parent is about controlling a child but for the child it is a matter of self-determination. And the right to self-determination should take precedence over right to control. But the author makes us cautious of the other side of taking decisions on behalf of the child where we are denying the child to speak for himself/herself. And here he recommends that working in the best interest of the child does not mean ignoring the child's wishes and the social worker has the responsibility of seeking the child's views.

*“A human rights approach to social work requires that the client, especially a vulnerable and powerless client such as a child, must have maximum input into any decisions regarding her/his future, and social workers are therefore required to make maximum effort to facilitate such input, through whatever form of communication is available to the person concerned. This includes providing interpreters for people who speak a different language, allowing people to communicate orally, or in writing, through art or drama, by computer, or any other relevant medium” (Ife, 2008, p. 60)*

A social worker making decisions in the interest of powerless or vulnerable should be informed of the cultural, political, historical and social contexts.

Following from such a perspective we look at rehabilitation from rights based perspective (Lewis, 2005). Rehabilitation involves providing the minimum services necessary for an offender to ‘reintegrate into society as a useful human being’ (Rotman, 1990 as quoted in Lewis, 2005). Lewis argues that the State has a moral duty to undertake rehabilitative work with offenders. This is because the State should provide them with opportunities of overcome the disadvantages that limit their ability to cope without committing crime. To add to this is the principle that the sentence or imprisonment should be separate from the rehabilitation goals and should be based on culpability. And that the rehabilitation should be voluntary and not coerced.

One can see the correlation between crime theories we saw in the first module with the above perspective.

## **2. Skills and Strategies for work in the CJS**

This section discusses some important skills and strategies for work in the CJS. The basic assumption here is that the clients are involuntary.

Trotter (2006) begins the process with role clarifying. **Role clarification** involves continued discussion about issues like authority and how it might be used, and the role of worker as a helper and a social controller.

We began the module with Worker Client Relationship- **Negotiator, Enforcer, Mediator, Advocate and Coach**. Cingolani (1984) states that a worker might move from one relationship to another. Some skills that are relevant to the worker are that of **bargaining and persuasion**. Bargaining is a process through which mutual expectations of the worker and the client are redefined and costs and rewards are relocated by each party (Murdach, 1980). Phases of bargaining: 1. "Discovering the bargainable," or the "establishment of actual bargainable objects and definition of the range of disagreement and possible avenues of agreement." 2. "Finding areas of agreement." 3. "Critical bargaining," which is

the stage where "actual proposals and counter-proposals are offered." This is also the stage most characterized by compromise and concession. 4. "Public presentation of results," or the well-engineered sealing of the agreement by public display of some sort (Mitchell as quoted in Murdach, 1980, p.459). Murdach (1980) further states that bargaining is typically achieved by using tactics of persuasion. Persuasion is done through discussions or exchange of information. Typically begins with examining the problems. Persuasion also has a planned distribution of promises, favours and rewards.

**Authority** is also strategically used as a form of persuasion. Shoom (1972) believes that although authority is often associated with hostility, repression and punishment, but worker in a correctional setting must convey that this can also be associated with love and understanding. For the workers, being identified with authority brings in an additional responsibility to understand their own feelings and attitudes towards authority. This authority cannot be understood as personal privilege but there is a need to understand its limitations and that it is delegated to the position the worker holds. The author further suggests that the boundaries and extent of the authority relationship should be clearly defined for the client to understand the worker's role. There should be openness about the authority which means that the client should be aware of the process, referrals and case details.

Trotter (2006) believes that it is important to **reinforce and promote pro-social values**. But he also warns against its narrow definition, instead defining 'pro-social' as "*it refers to values or actions which might be construed as the opposite to criminal— in other words, actions and values which support and care for others*" (Trotter, 2006, p. 23). This involves the social worker to be clear of the values that they wish to promote and communicating this through use of praise and other rewards.

Mathew (undated) discuss the '**self**' as an instrument for change. Here the self is the social worker. The social worker much be aware of their own biases, prejudices and how these affect others. Social workers must cultivate in them principles like acceptance and an attitude of non-condemnation. Cultivating these values, she opines, would require some role enactment in the beginning till these become a part of the social worker's personality. She describes six components of the self- the communicating self, the feeling self, the thinking-knowing-reasoning self, the doing self, the self-monitoring self and the ideal self. As for the development of the last two she suggests peer group supervision. Rajaram (undated) suggests that for the social worker to use oneself as an instrument of change, one must focus on skills, must introspect, assess and be aware of his/her sensitivity to self, to the feelings and perceptions of other people, and to the general interpersonal environment, availability of self, transparency, openness and authenticity, should adequately be trained to own one's feelings, maintaining consonance between feelings and behaviour, demonstrating clarity in expression of feelings and integration of emotionality into various life processes. Awareness of one's motive, clear communication of one's motives, congruity of actual self and ideal self, are all important.

**Collaborative problem solving** is another important strategy. “*Problem-solving involves working with the client's definition of the problem, developing modest achievable goals which are the client's rather than the worker's (or at least collaboratively developed), and identifying strategies with the client to achieve the goals*” (Trotter, 2006, p. 25). Problem solving begins with ‘problem survey’ where a client may be asked to identify their problems and what they might want to change. This is followed by ‘problem ranking’. Once a problem is chosen to work on, that problem is explored in depth. Goals are set. A contract is developed. The next step is to develop a strategy and tasks which are means to achieve a goal. Tasks and goals have to be specified and clear. There should not be different interpretations of them between the client and the worker.

Apart from this empathy, humour, optimism, self-disclosure is helpful. Social workers often also have to work with the families.

### **3. Social Workers in the CJS**

In the rest of the module, we will discuss the various initiatives to understand the role of social workers in the different wings of the CJS. In India, the Tata Institute of Social Sciences (TISS) has been a pioneering institution in creating the space and recruiting social workers in the CJS. We have already discussed how TISS contributed right from training the first batch of government officers for work within the CJS. TISS continues this contribution to this day with short term refresher courses. While candidates pursuing the masters in social work with the specialization in criminal justice at the Department of Criminology and Correctional Administration (CCA) of TISS, now the Centre for Criminology and Justice (CCJ) in the School of Social Work (SSW) at TISS till the 1970s were almost entirely government deputed, the Centre continues to train social workers to work in the CJS through the two-year master’s program. These social workers work with various civil society initiatives and also within the field action projects (FAPs) that TISS has initiated. We discuss the role and work of social workers within the CJS through the work of these FAPs.

FAPs have been started as responses to realities in the field. From a constructivist point of view, they highlight the role higher education institutions can play within the community (Dave et. al., 2012).

#### *3.1 Social Workers working with the police*

In the first module, we have understood the general structure of the police system. We have also had some basic idea of the police working. Police are primarily responsible for maintaining law and order. Apart from dealing with criminals they have to deal with victims, domestic disputes, senior citizens and minors in need of care and protection. By virtue of being available 24 hours a day they end up being the first point of approach for numerous issues that citizens deal with. Many of the cases do not require legal intervention or filing of first information reports (FIRs). Many cases need mediation and



referrals that fall beyond the perceived scope of work of the police, nor do the police receive any specific training to handle such cases. Research has pointed that between 45% and 50% of police work in urban areas and a greater portion in rural areas is unrelated to crime (Holdaway, 1986).

We have seen in the first module that a large number of cases that the police receives are non-cognizable or where the police does not immediately file a FIR. A total of 73,26,099 cognizable crimes were recorded in 2015 but 42,32,199 non-cognizable complaints were registered by the police. This makes non-cognizable offences 36.16% of the total cases. These cases may not need a legal response. But even among the cognizable ones, a socio-legal response may be the best suited instead of a purely legal response. For example, a victim of domestic violence may require immediate shelter, protection for her children as much if not more as she needs to file a FIR. Or a child labour victim might also need a shelter, compensation, may even need medical assistance and more importantly long-term rehabilitation. These things fall outside of the purview of a policeperson's job, nor are the policepersons trained for such a role.

Sinha (2017) gives a detailed view of the police working and functions. She opines that with the advent of community policing, the police are viewed differently and expected to fulfil the role of a community based social service provider. However, she continues, "*as per the Section 23 of the Police Act of 1861, which specifies the general functions of the police officer, the social responsibility roles do not exist. The Act enjoins the police officers to obey and execute all orders and warrants lawfully issued by any competent authority.*" Further, the same section makes it a duty of the police to collect and communicate intelligence affecting public peace, to prevent the commission of offences and public nuisances, to detect and bring offenders to justice and to apprehend all persons whom he/she is legally authorized to apprehend, and for whose apprehension sufficient ground exists.

The Model Police Bill takes a very different stand and expands the duties of the police. Section 4 of the Bill lays down the duties of the police. The police shall *lawfully and impartially uphold and enforce the law to protect the life, liberty, property, human rights, and dignity of all as well as the security of the State*. Some of the duties of the police include, keeping the peace, preventing crime, and preserving public security; helping maintain a feeling of security in the community, and as far as possible, resolving any conflicts within the community; rendering all possible assistance to those in danger of physical harm to their person or property, and in particular facilitating, in coordination with the civil administration, medical aid, compensation and legal claims of victims of disasters and accidents; in coordination with other agencies, protecting and assisting the public, particularly senior citizens, women, children, and persons with physical or mental disabilities who are found in distressed or destitute conditions, and guarding them against criminal exploitation by any person or organised group; arranging for the care, safety and lawful sustenance of every person in custody, and informing such persons of the provisions of any applicable legal aid schemes; remaining at all times accountable

to the law and observing codes of ethical conduct and integrity, as may be prescribed. All these require the police to go beyond the traditional role. The police is also expected to work with other agencies for some of the work.

Even without this becoming a law, it is clear that the police need to go beyond their traditional role of implementer of law to a more community centred role. Nonetheless, the need of social workers is felt in the police system. In America, the police social work movement began with the recruitment of policewomen in the police department who were responsible for providing some social services to women and children (Roberts, 1976).

Sinha (2017) distinguishes between Police Social Work (PSW) and social work with the police. *'Social work with the police broadly encompasses the work of non-police, non-state, organizations such as NGOs (local and international), academic institutions and so on, who establish collaborations with police departments as one of their activities.'* This work is dependent on the perception of the police. Hence the presence of the social workers may be need based and temporary. Police are the decision makers. As opposed to this, PSW has two models. *'In the first model, police departments employ social workers, and in the second, the police integrate social workers of a civil society/ human service organization, into the system as an equal partner and hence they are entitled to use the police infrastructure for their work'* (Id. p. 101). In PSW social workers have their autonomy. PSWs have a well written mandate because they analyse the work of police and then model their role and work based on that.

In India, social workers started working with the police through advocacy. Two of the earliest such initiatives are Special Cell for Women and Children and Prayas, both FAPs of TISS. Another example could be the helpline for children, 1098 or Childline which also began as a FAP of TISS in 1996. The work of Special Cell for Women and Children, a FAP of TISS initiated in 1984, is one interventions with the police that focuses on domestic violence which is one of the most significant struggle for many women and a violation of human rights. This was initiated by Prof. Meenakshi J. Apte, the erstwhile Head of the Department of Family and Child Welfare, now the Centre for Women Centred Practice in the School of Social Work, Tata Institute of Social Sciences (TISS).

Dave and Dharmadhikari (1987) write about the initial years of the Special Cell, the issues and challenges they faced and how they progressed. The idea of the Cell came from an intention to help women who are victims of physical and mental cruelty, domestic violence, rape, molestation, sexual abuse, and other crimes to approach the police. The Special Cell was set up first to observe, understand and analyse the problems of women approaching the police for assistance and then the aim was to assist police in working out solutions. The cell was set up between social workers and the police. The beginning of the cell was with social workers sitting at the 'darbar' of the Commissioner

of Police in Mumbai with the Commissioner when he met the public every day (The Commissioner of Police at the time was Mr. Julio Ribeiro). This helped the social workers understand the problems of the people approaching the police and also allowed for cases to be directly referred to the social workers (Dave and Dharmadhikari, 1987, pp. 315-316). In the same article when the authors describe the first day with the police and the very first case, they make one important point here, 'we realized that, perhaps, because our goal was not to critically question, but to seek information, information was freely given'. This is important for a social worker working in the system to not make attempts to change the system before understanding it well. The work of the cell began with the following objectives- 'to familiarise ourselves with the working of police stations; to explain the role of the Special Cell to the officers at the police station; to learn what kind of cases women approached a Police Station with; to establish rapport with the police officers at the station level and elicit their support and co-operation; to establish guidelines for referral of cases to the Special Cell from the police station (Id. pp. 317-318).

One of their first concerns after introducing themselves was to make sure that non-cognizable cases were attended to and to go beyond providing legal help. The social workers were there to play a supportive and supplementary role to the police. It was important to make the boundaries clear which meant that social workers were not to interfere in police work or take up other cases, not react spontaneously to injustices and avoid being judgmental, condemn or even direct. Social workers also had to accept the superior legal knowledge of the police but also firmly state their own usefulness (Id. pp. 319). One of the barriers that the authors discuss is regarding the right to self-determination of the women approaching the police station. *"This has been extremely difficult. We have realized that, in our society, right from her childhood, a woman is hardly given any opportunity to take a decision for herself. She is required to depend on somebody else to make decisions for her. She is never allowed to express her views, thoughts or opinions on any issue. This diminishes her sense of self-worth and destroys her self-confidence. Therefore, it takes conscious and determined effort to make them self-reliant"* (Id. p. 321). To overcome this, they made it a point to ask the women to write down their applications, if they could not write, they were asked to take help from literate friends and relatives. They also had to outline their decisions and define the kind of help they expected from the Cell. This process helps clients to examine their problem from different perspectives and reassess their situation, it gives them clarity through reflection and then they are determined to take a stand. The end result is that the client is in a better position to cooperate with the intervention that is recommended by the Special Cell.

Since the Special Cell began its work there have been more such initiatives. Family Counselling Centres have been set up, Special Cells have been set up in all districts of Maharashtra and seven other States across the country. There are two social workers in each unit and a coordinator for every

10 units. These Cells are housed in police stations and share police infrastructure. Even within TISS a Resource Centre on Violence Against Women has been created (Dave, 2013). One of the basic principle behind the long-standing partnership that the Special Cell has sustained with the police is cooperating with the system instead of reacting to it. By keeping communication open with the police, they have able to change their ideological positions and beliefs and also give the investigations a gender lens. This has been possible because the Cell is within the system, this gives an opportunity for interactions, discussions and debates (Dave, 2013).

Prayas is another FAP that works with the police and the CJS, since 1990. Prayas is a FAP of the Centre for Criminology and Justice, School of Social Work at TISS. Over the last 27 years, Prayas has worked in police stations, prisons, and protective homes, shelter homes for women, observation homes, etc. According to the Prayas Handbook on Social Work Interventions at Police Stations, many cases turn into legal disputes and criminal matters due to ineffective interventions in the society, in family. It is important to understand the structural inequalities, and the power imbalances involved in these. Trained social workers play an important role in preventing these problems from escalating (Raghavan, 2012). Some important issues to be kept in mind while working with the police that are,

- Developing a functional relationship with the police rather than start with any ideological bias about the system.
- Open-mindedness and the need to “work” with the police rather than take an “either” “or” position.
- Refraining from questioning the intentions of a police officer concerned.
- Emphasizing that both the social worker and the police are working towards crime prevention as one of their objectives.
- Recognizing that the role of police and social worker are different; a mutually supportive but non-interfering relationship needs to be developed with the station house staff.
- Approaching senior officers whenever required.
- Keeping the police informed about developments in a case, and seeking their assistance if necessary.
- Refraining from participating in police investigations.
- Maintaining the confidentiality of clients to the extent possible.
- Refraining from use of pressure or force, and helping clients make their own decisions. (Raghavan, 2012, p. 12)

These are based on the experience of Prayas of 27 years. Social workers at the police station facilitate effective communication between the police and person approaching the police. Police stations, by their very nature are seen as institutions of authority. Social workers act as negotiators between police and common people, to find solutions to the problems which are not just legal but socio-legal.

### *3.2 Social Workers in the juvenile justice system*

In India the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act) is the present statute that governs the juvenile justice system. The JJ Act was first enacted in 1986 which followed a series of amendments. Social workers had become a part of the juvenile justice (JJ) system from even before this Act was enacted. The Children's Act, 1960 also had made social workers a part of the children's courts. But apart from that social workers and counsellors were also an integral part of child care and after-care at various children's institutions (Raghavan and Mishra, 2017). Social workers continue to legally be a part of the Juvenile Justice Boards (JJB) established by the subsequent JJ Acts. But like with the police, in fact more so in the case of children, there is a greater need of social work intervention as opposed to a legal intervention. Hence through the civil society and within the child care and after care system, social workers have always found place as counsellors, probation officers and Superintendents of children's institutions. Social workers have also found place in the police stations to cater to the needs of children as seen in the previous section. The JJ Act applies to all matters that concern children in need of care and protection (CNCP) and children in conflict with the law (CCL) (Section 1 (4)). According to section 2 (12) a child means a person who had not completed eighteen years of age. As per the latest amendment, there was a change and the new Act permits children between 16 and 18 years, accused of crimes that carry a minimum punishment of imprisonment of seven years to be tried in the adult system if the JJB finds that the offence is committed with their full knowledge and understanding of the consequences of their actions.

According to Crime in India 2015, majority of cases registered against juveniles were reported under theft (19.3%) followed by criminal trespass/burglary (8.3%), rape (5.4%) and kidnapping & abduction (5.2%). Majority of juveniles in conflict with law apprehended under IPC crimes were in the age group of 16 yrs– below 18 years (71.6%) (27,986 out of 39,074) during 2015. 7,354 juveniles were sent home after advice or admonition, 9,665 juveniles sent to special homes, 4,582 juveniles acquitted/ otherwise disposed of and final order of 21,562 juveniles remained pending at the end of the year 2015. Out of 41,385 juveniles apprehended during 2015, 4,757 juveniles were illiterate, 14,229 juveniles had education up to primary level and 19,056 juveniles have above primary but below matric/HSC level education during 2015 accounting for 11.5%, 34.4% and 46.0% of total juveniles apprehended respectively. Out of 41,385 juveniles apprehended during 2015, 85.7% (35,448) juveniles were living with parents and 3.9% (1,622) were homeless. A large number of juveniles (42.4%) (17,543 out of 41,385 juveniles) belonged to the poor families whose annual

income was up to Rs. 25,000 only. Out of 41,385 juveniles apprehended, 38,877 juveniles apprehended for the first time and 2,508 juveniles were recidivists. Many juveniles in the system are school drop-outs, drug addicts, tobacco or alcohol addicts, have behavioural issues, and influenced by deviant peers (Mukundan, 2017).

Clearly, many juveniles apprehended come from disadvantaged households. Social workers can play two roles in the JJ System- as mandated by the law and wherever there is a need for intervention. The Resource Cell for Juvenile Justice, A FAP of the Centre for Criminology and Justice, School of Social Work at TISS started working in 2005. Legally, the JJB has a social worker as its member. But Mukundan (2017) found that very often, because of the broad understanding of the position anyone from a doctor, paediatrician, faculty members of schools/ colleges with no relevant social work education and experience can also be accommodated, and often a person with legal background is preferred. It was also seen that the JJB is predominantly run by the Magistrate only and the social worker's role was restricted to counselling and advising.

Apart from this, the JJ system has a Probation Officer who is considered as the friend of the Board and is responsible for making inquiries regarding home, school conditions and health of juveniles, prepare Social Investigation Report, prepare care plans, supervise juveniles on probation, facilitate group counselling, follow-up on juveniles after release, be their friend and confidante, facilitate their rehabilitation and reintegration. NGOs contribute to the JJ system by running shelter homes, prepare SIRs even for CNCP, assist in rehabilitation, counselling. RCJJ works within such a system where many juveniles that they come across can also be argued to be CNCP. The institutionalization separates them from their families and parents and that trauma has to be handled. Juveniles may also be unaware of the law when they commit crime. Many who drop out of school are helped to get back to school by the social worker.

Because of the stigma for a juvenile to get back to education, a social worker has to facilitate entry into alternative education schemes. Families have to relocate because of the stigma, police harassment and lack of social support. This can also be facilitated by the social worker. Social workers supervise juveniles given community sentences. Social workers play a role in making the families and juveniles understand the working of the JJ system. RCJJ initiated a help desk outside the JJB in Thane and Yavatmal with two social workers. Regular meetings are also held to understand the difficulties faced by both within the JJ system. With the police, RCJJ feels that social workers or POs should work right from the apprehension of a juvenile by being present at the time of inquiry, help trace juvenile's family, train police officers. Within the institutional setting, RCJJ is involved in direct work with the children through legal guidance, home visits, preparation of SIRs, repatriation, strengthening bonds with families, financial assistance in vocational and educational guidance, representing juveniles before CWC or JJB. RCJJ also does group work with children. RCJJ conducts Open Forum

Discussions where institutionalized children discuss their issues and concerns, regular de-addiction sessions, group meetings are also held with parents to resolve their issues (RCJJ Annual Report 2013-14).

### *3.3 Social workers in the corrections and after-care*

According to Prison Statistics India 2015 'Prison institutions are known by different names in different countries like 'Correctional Facilities', 'Detention Centre', 'Jails', 'Remand Centre' etc. Earlier notion of prison as a facility in which inmates are forcibly confined and deprived a variety of freedom as a form of punishment has changed with a change in social perception towards prison and prisoners. It is now treated as correction or improvement facility which itself indicates that there is more emphasis on reformation of prisoners than to punish them. To achieve this goal, a congenial atmosphere is required to be created in jails for reformation of the inmates. Apart from emphasis on social & ethical values for amalgamation in mainstream society after release they also require education, recreational & vocational training facilities so that they not only correct their hostile attitude towards society which will help them to integrate with the mainstream of society but also provide alternate source of livelihood.'

#### **Brief History of Prison Reforms:**

In India, under British rule, it was Lord Macaulay who drew attention to the terrible prison conditions prevailing in the country. A committee was set up in 1836 to examine the issue and make recommendations. However, the committee did not give any reform-oriented recommendations on the pretext of laxity of discipline. (Raghavan 2013) The laying down of UDHR and the UN Standard Minimum Rules for Treatment of Prisoners (1955) were important events. The enactment of the Constitution of India further strengthened the rights framework for treatment of anyone within the CJS.

The Prisons Act of 1894 governs the issue of treatment of prisoners in India. The minimum conditions for treatment of prisoners are laid down here. Some of its important sections are- Section 4 provides for proper accommodation for prisoners, Section 7 casts an obligation on the state government to provide for temporary accommodation in case of overcrowding or the outbreak of an epidemic, Section 13 makes the medical officer responsible for sanitary conditions in prisons, Section 14 provides that the medical officer is required to submit a report regarding the mental condition of a prisoner whenever it appears that he is not fit. Apart from this, issues of separation of males and females, convicts and under trials are also provided. To add to this there are Prison Manuals for each state (Raghavan, 2013).

The *Model Prison Manual* 1970 has also laid down the guiding principles. The manuals concern themselves with issues like hours of work, type of work, clothing of inmates, accessories, punishments, meetings with family members, parole, furlough and such other issues. There are Supreme Court and High Court judgments on bail, overcrowding, fair procedures, speedy trials, some of which we have seen earlier. In the landmark judgment of Sunil Batra (AIR 1980 SC 1579), the Supreme Court of India laid stress on the UN Declaration, “the treatment of prisoners should emphasise not their exclusion from the community but their continuing part in it. Community agencies should, therefore, be enlisted wherever possible to assist the staff of the institution in the task of the social rehabilitation of the prisoners. There should be, in connection with every institution, social workers, charged with the duty of maintaining and improving the desirable relations of a prisoner with his family and with valuable social agencies. Steps should be taken to safeguard to the maximum extent compatible with law and the sentence, the rights relating civil interests, social security and physical security of prisoners.”

We have also seen in the first module that initiatives to reform the prison system were initiated with the Jails Committee of 1919, then there was the All India Jail Manual Committee in 1957. An expert from the UN, Dr. Walter C. Reckless, was invited to help formulate the correctional policy of the nation; he had an instrumental role to play in the setting up of this committee. Based on the recommendations of this committee, the *Model Prison Manual* was published by the central government in 1970 (Raghavan, 2013). The All India Committee on Jail Reforms (1980-83) (Mulla Committee) made many recommendations to improve the conditions of prisons and the situation of prisoners. The relevant recommendations of the committee are about involvement of community participation, role of NGOs, community based treatment programs, aftercare, adult education, legal aid, tackling socio economic conditions that contribute to crime, counselling, family support, etc.

The National Expert Committee on Women Prisoners, 1987 has specific role for social workers. “*The committee has recommended an active reaching out to the prisoner to effectively deal with the anxieties of inmates, particularly undertrials, with respect to their families and children. To assist the prisoners more usefully, and especially to serve as liaison between the prisoner and his or her family, it is necessary to have trained social workers whose specific duties would not be custody and security, but rather the social integration of the prisoners. Such social workers could also arrange activities for undertrial inmates to help them to spend their time meaningfully, without compulsion. Such social workers would be useful as a tool to prison management to understand social and group dynamics and to use it to the advantage of the prisoner as well as the custodial staff. The social worker’s counselling input should encompass the custodial staff as well as the inmates* (Vol 1 Paras 363 and 364, pp. 243–244) (As cited in Raghavan, 2013).



Prayas started working in Prisons in 1990. The work began in the women's and young male adult section of Mumbai Central Prison and the batches of students who were placed in the prisons as part of their field placements learnt as they moved within the system. One of the earliest learning of the project was that prisoners were predominantly from weak socio-economic backgrounds and unable to access and avail their rights as under trials (Raghavan 2013, pp. 280). The initial years were spent in understanding the intricacies involved in the life situation of the inmates, the functioning and challenges faced by the prison department, and the other subsystems of the criminal justice system, and social processes that needed to be understood in order to work effectively (Id. pp. 281). The social work students provided legal services like providing legal information, facilitating communication with the CJS and psychosocial intervention like maintaining contact with family members. Gradually, from focussing on under trials, Prayas moved towards the entire process that an inmate goes through within the CJS. This way Prayas expanded to police stations, women's institutions and post custodial services.

The target groups now are women and male youth, in prisons or in protective custody, trafficked women or women forced into prostitution, families of criminal justice system-affected population, including children of prisoners, persons released from custody, persons vulnerable to crime, prostitution, victimization, or sexual exploitation. Interventions have been at the individual and the level of the criminal justice system. The focus of Prayas has not been merely on human rights and custodial justice, but has also included psychosocial rehabilitation. Prayas has also worked with children of prisoners, in terms of the facilities that are provided to children living with their mothers in prisons. Aftercare interventions have focused on strengthening relationship with family, liaising with police.

A more recent FAP at TISS is Koshish, which works on homelessness and destitution. The project is aimed at decriminalisation of beggary. The anti-beggary laws end up criminalising poverty as anyone without an ostensible source of livelihood can be processed under these state laws and detained in beggars homes for years on end, without proper rehabilitation programmes. The project began in 2006 in Mumbai's beggars' homes, it has now expanded its work to Delhi, Bihar and recently Rajasthan.

The main objective of Koshish is to repeal the Prevention of Beggary laws which institutionalize people living on the streets like the mentally ill, transgenders, de-notified tribes, homeless, etc. These people may be living on the streets because of various structural inequalities but end up criminalized by the law. Koshish tries to humanize the existing institutions under the beggary prevention law like beggars' homes and works to rehabilitate the institutionalized population.

The project's advocacy work has focussed on repealing the laws. The present system should be replaced by welfare and social security measures is the aim. Koshish has initiated a programme called

My Space which is an experimental process facilitating 'free and secure environment' within custodial institutions. Apart from that, the work focusses on counselling, life skills training, mental health interventions, medical interventions, tracing families, and institutional placement; Koshish organizes recreational activities to create a positive environment, helps in finding employment through an Employers' Collective. Koshish works to protect the legal rights of individuals arrested under the begging laws. Koshish also links clients to government schemes to facilitate their exit from destitution by enhancing their capabilities. (<http://www.tiss.edu/view/11/projects/koshish/>)

#### *3.4: Social Workers Outside the Institutionalized System*

FAPs at TISS have also focussed on stigmatized and marginalized populations who are at a risk of being institutionalized. The NT and DNT (Nomadic Tribes and De-notified Tribes) are one such section of the population. The DNTs were those tribes that were declared criminal under the Criminal Tribes Act 1871 which was repealed in 1952. These groups were considered habitual offenders and severe restrictions were put on their movement.

The Pardhis are one such community with whom Towards Advocacy Networking and Developmental Action (TANDA) started as a field action project (FAP) in year 2011. TANDA was based on the field work of two TISS students with the Pardhi Community in Mumbai. Since then TANDA has expanded and TANDA is currently working with about 1200 families from Pardhi, Wadars, Masanjogis, and Banjaras in its area of operation in Mumbai (Patra Chawl, Jaiambe Nagar and Mukti Nagar) and Navi-Mumbai (Ulve, Digha, Ganpatpada, Ambedkar Nagar, Koperkhairane, Indira Nagar, Turbhe Store).

*“TANDA works towards “creating self-reliant NT-DNTs and ensuring the realisation of their constitutional and entitlement rights, as citizens of India”.* TANDA strongly believes that NT-DNTs should organise themselves to advocate for their rights and dignity. The project aims to play the role of a change agent through generation of knowledge, capacity building and networking with different stakeholders on relevant issues towards policy advocacy” (<http://www.tiss.edu/view/11/projects/tanda/>).

To this effect TANDA's field intervention includes NT-DNT Women Leadership Programme which focuses on skill building through meetings, campaigns, information sharing on laws and health issues. TANDA aims to empower the women. VAJRA NT-DNT Women Sanghatana is a collective of 17 SHGs in TANDA's field area in Mumbai and Navi-Mumbai. This is a step towards financial literacy and independence of women. Through Community Learning Centres (CLCs) TANDA focuses on education of children and community organising. There are adult literacy programmes, remedial classes, and other extra-curricular activities like sports, arts-craft, theatre. CLCs also chip in to provide sensitization and training on issues like violence against women, rationing, government

schemes, citizenship entitlements and preventive and reproductive health care. TANDA also focuses on researches and in fact began work with extensive research on the communities. These create knowledge to guide advocacy with State on various plans for the target groups (These reports can be downloaded from <http://www.tiss.edu/view/11/projects/tanda/>).

The examples used here have been useful to understand not just the kind of work that can be done within the CJS but also how the work was initiated and progressed. In all the interventions, a strong base of a human rights approach is clear. But the work is not restricted to just that. Psychosocial and legal interventions have gone hand-in-hand to ensure the best outcome for those within the CJS. Some important values like being non-judgmental, reflexivity have been the strengths of these interventions. These have only been used as examples and is not an exhaustive list of work that social workers do or have done within the CJS.