

Probation Services in India

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WHILE the concept of probation as a method for extramural treatment of offenders has been known in India for nearly three-quarters of a century, its recognition as a more effective rehabilitation tool has been more recent and has been universally accepted during the past two decades. While some of the States had passed their Probation of Offenders Acts even before Independence in 1947, it was the Central Probation of Offenders Act, 1958, which introduced a comprehensive measure, applicable to the whole country. The Central Act provides for a mandatory calling of a social investigation report by the Courts from the probation officers in respect of all offenders under 21 and imposes severe restrictions on the imprisonment of offenders below 21 years of age and if such offenders have to be sent to prison, special reasons have to be recorded in writing. Under Model Rules which were circulated by the Government of India for adoption by all the States, the duties and functions of the probation officers and minimum requirements for their training and education have been set out. At present, while the majority of States have adopted the Central Probation of Offenders Act, four of them have their own State Acts and are gradually introducing the Central Act in a phased manner. In this way, a broad measure of uniform legal provision and procedures is being achieved in the probation field.

There are, however, still several limitations as regards the successful implementation of the probation programme. The percentage of offenders released on probation is insignificant compared to the large numbers who find their way to prison serving terms ranging from a few days to a few weeks. The reasons as to why the provisions of probation are not fully utilised are being investigated. The record of some States, which had enforced such a measure earlier, is better than that of States which have implemented them only more recently. Statistical summaries of total prison population indicate that about 85 per cent of prisoners serve sentences of less than six months. This indicates that there is a vast field open for probation. One of the likely reasons for inadequate use of probation provisions is the small number of probation officers, their low status and inadequate academic and professional background. The States have given low priority to a correctional programme and have not provided adequate

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budgets for its development. There is one probation officer for every district in several States. The target should be to have at least one probation officer attached to every sub-divisional court, so that he has not to cover long distances to reach the courts or the clients. The educational background of the probation officers needs also to be raised and specific professional training provided. And the judiciary, who have been given the discretion to use probation instead of imprisonment, must be oriented to the new tasks and techniques of corrections. At present 379 probation officers have been appointed in 261 districts covered under the Probation of Offenders Act. During 1965, 7,924 offenders were released on probation while in 1966 the number of probationers rose to 8,044. While this is indicative of a positive trend in favour of probation, as contrasted to 367,995 convicts admitted to prisons in 1965 and 374,862 in 1966, the proportion of probationers is insignificant.

The contribution of voluntary probation officers, though provided for under the Act, is not very significant. Compared to 379 full-time probation officers in 1968 there were 111 voluntary probation officers in the country. No training programme has been specifically directed towards voluntary probation officers.

In view of the growing realisation that prison sentence is not the best mode of treatment to ensure the protection of society, probation services offer a vast scope for expansion. The argument that it is cheaper and more effective in terms of rehabilitation to have an offender treated outside the prison should move the authorities and policy makers to invest greater funds for the improvement and development of the probation programme.

The probation programme has to be co-ordinated at district level with other agencies such as the police, judiciary, after-care and rehabilitation agencies, voluntary welfare services, would-be employers, etc. Participation of the public is very important here. In Maharashtra and Gujarat States district probation committees meet once every three months to take a review of cases investigated or supervised by the probation officers. There are also periodical meetings of judicial officers and probation officers. These have helped to create a better awareness of the potentiality of probation. In the Bombay Criminal Manual, 1960, issued by the High Court, clear directives are given for the judiciary on this subject.

A survey investigating how far the States have implemented the Probation of Offenders Act revealed the following figures:

With the rapid social changes arising out of economic development, migration of rural masses to cities, urbanisation and consequent social disorganisation, juvenile delinquency is rising in all developing countries. India is no exception, and the incidence of juvenile delinquency is increasing. In 1963, crimes known to have been committed by offenders below 21 years were reported as total-

<i>Name of the State</i>	<i>Number of Districts</i>	<i>Number of Probation Officers (stipendiary)</i>	<i>Number of Voluntary Probation Officers</i>	<i>Total number of social inquires</i>	<i>Total number released on probation</i>
1	2	3	4	5	6
1. Andhra Pradesh	20	49	—	5238	853
2. Assam	11	9			
3. Haryana	7	10		112	474
4. Gujarat	17	55	14	2424	425
5. Kerala	9	13	3	2569	1253
6. Madhya Pradesh	42	—	91		
7. Maharashtra	19	35		5564	197
8. Mysore	13	21		1719	267
9. Punjab	11	13	2	489	768
10. Tamil Nadu	26	68		28267	6877
11. Uttar Pradesh	58	57			2412
12. Orissa	13	13			
13. West Bengal	6	9			
Union Territories	9	27	1	4628	256
Total:	261	379	111	51010	13782

ling 16,432, compared with 22,853 in 1967 in the same age group. Miscellaneous minor offences and ordinary thefts account for three-quarters of juvenile crime.

The cause of juvenile crime is a highly complex subject, but from available data it can be surmised that it is largely a result of parental neglect, due to broken home or poverty, exploitation of children and faulty environment during the early years of childhood. In India it would appear that the extended family, which traditionally gives shelter and support to near relations, and the negligible rate of divorce are positive factors in the prevention of delinquency. A study of several new economic development projects in India has revealed that if social planning goes hand in hand with economic development, there is no increase in juvenile delinquency, but that haphazard economic growth leads to greater incidence of crime.

Treatment of juvenile delinquency is the responsibility of each State and generally it is administered by the prisons or by Welfare Departments in the States. In India the problem of juvenile delinquency is generally interpreted as a welfare problem and not necessarily a penal one. Some of the States have implemented State Children Acts for over half a century and have developed wide experience and very well organised children's institutions. At the same time, in States without such Acts and in others where they are

not enforced, juvenile offenders are still being treated through the normal channel of the penal system. In the absence of a suitable institutional machinery for handling juvenile delinquents in these States, some children are sent to Borstal Schools or youth wings of ordinary prisons. It is expected that before the end of 1970, all the States in the country will be implementing State Children Acts.

The Union Government passed in the year 1960 a Central Children's Act applicable to all the Union Territories. This Act has introduced for the first time a separate channel for processing neglected and destitute children, viz. the Child Welfare Boards. Members of the Child Welfare Boards are non-official social workers well versed in child welfare and social problems, nominated by the administration. Destitute and neglected children are sent to Children's Homes and the delinquent children only are sent to Approved Schools. Many of the new States have adopted this Act as a model. While the example of Child Welfare Boards is being studied, there is a difference of opinion whether the distinction between a destitute and a delinquent child is valid in actual practice.

A great deal of emphasis is given to the training of personnel to become probation officers, superintendents of institutions, caretakers, etc. With the proposed expansion of services for several States, training programmes will have to be intensified. Basic training at the graduate level in social work with specialisation in correctional administration will be useful. This has to be supplemented by in-service training at all levels.

Experience of managing correctional institutions for children has shown that 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 and giving child-rearing help to families. Six major cities in India have undertaken such pilot projects of services for prevention of delinquency, vagrancy and begging.

Another variation of the non-institutional care is the foster-care programme developed in some States under the provision of Children Acts. The juvenile courts give custody of a child to a fit person, under certain conditions till the child grows up. Some financial support is given to the family to look after him. Adoption of children has not become practical in India for want of enabling legislation, although a Bill on the subject has been drafted.

The programme of care and protection of children offers good scope for voluntary workers and agencies to participate in all general welfare activities. Honorary Social Workers are appointed as Honorary Magistrates or Members to assist the Juvenile Courts and Welfare Boards. Non-official members are also appointed as visitors to juvenile correctional institutions. In some States the management of Remand Homes is entrusted to local Probation and After-care

Associations. A large number of orphanages and Children's Homes run by voluntary agencies are recognised as "fit person" institutions under the Children Acts.

Under the Indian Constitution, traffic in human beings is prohibited. India is one of the signatories to the International Convention on the Suppression of Immoral Traffic in Women and Girls signed in 1949 at New York, and in 1956 the Government of India legislated accordingly.

It is a truism that such social problems, the roots of which are deeply entrenched in social attitudes, religion, superstition, economic gain and vested interest cannot be tackled by legislation alone and require a general level of public education and a fair measure of support from the public for its eradication. For this reason an extensive programme for prevention of prostitution through other social services was initiated in 1958, and all the States set up district-level Shelters and State-level Homes for girls and women in moral danger. While these homes have proved very useful, the same cannot be said about the success of implementing the legislation, which seeks to inhibit commercialised vice, i.e., the traffic in women and girls for purposes of prostitution as an organised means of living. It has been found that very few women and girls taken from brothels are being received, after successful prosecution, in the Protective and Corrective Homes set up under the Act by the State Government. Further, the Act provides for the setting up of non-official advisory bodies to assist the Special Police Officers and prescribes that before making any search of the premises, the Officer should be accompanied by two responsible persons from the locality, one of whom should be a woman. These provisions are sometimes difficult to fulfil and result in unsuccessful prosecutions.

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