

Re- Socialization of Probationers in West Bengal: The need of Sociological Re-integration of Ex-Probationers

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ABSTRACT--- *Over the years after the gradual development of modern criminological thinking, probation evolved as a viable means of reformation and also an alternative to incarceration. Probation is such a system which acts as a bridge to fill the so-called gap created between the harsh realities of our Penal Code and the modern trend in penology directed to humanize the criminal laws. It is believed that if a man deviates from the path of rectitude, he can be directed to the right path through proper assistance and guidance. If an offender commits an offence it may be because of necessity, inadvertence or being in association with bad characters or just to wreck vengeance. Probation deals with such first-time offenders under conditional suspension of their sentence after being convicted and they are placed under the supervision of a probation officer subject to certain conditions solely with a view to reestablish and rehabilitate them in the society. The author in the present paper has tried to highlight how far the Probation system proved to be a success in re-socializing the probationers into the mainstream of the society by undertaking an empirical study of the ex-probationers of West Bengal.*

Keywords--- *Probation, Incarceration, Ex-Probationers, Probation Officer, Supervision*

I. INTRODUCTION

Principles of modern Penology has already established the fact that the criminals are not born but made. Therefore, it is often said that when a crime is committed, it may take place due to a variety of factors. Societal and economic causes can be attributed to such crime causation. Even rapid erosion of moral values as a result of frequent parental neglect, victim of the circumstances or even indulging into a criminal activity in heat of the moment. We cannot therefore come to a definite conclusion that whoever indulges into a criminal activity had any prior intention to commit such crime. Sentencing such an offender to prison may have all the possible means of turning him into a hardened criminal and as a result when he gets released he quite evidently becomes an enemy of society and again repeats the crime. Hence it becomes imperative on the criminal justice system of our country to re-socialize him and bring him into mainstream of life. And this type of re-socialization can be best achieved through the so called probation system which are becoming increasingly popular, paving way for effective community services and creative employment opportunities. Over the years after the gradual development of modern criminological thinking, probation evolved as a viable means of reformation and also an alternative to incarceration. Probation is such a system which acts as a bridge to fill the so called gap created between the harsh realities of our Penal Code and the modern trend in penology directed to humanize the criminal laws. Probation deals with such first-time offenders under conditional suspension of their sentence after

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being convicted and they are placed under the supervision of a probation officer subject to certain conditions solely with a view to reestablish and rehabilitate them in the society. Of all the modern methods of corrective treatment, probation, is such a viable alternative which has achieved the greatest prominence. It is one of the non-institutional method of treating offenders within the framework of our legal system. The main objective of probation is to bring back the probationers into the mainstream of society. The Probation Officers are duty bound to supervise, re-socialize and rehabilitate the probationers under their supervision so that they can be brought back to the mainstream of their life, effectively. It is believed that if a man deviates from the path of rectitude, he can be directed to the right path through proper assistance and guidance. If an offender commits an offence it may be because of necessity, inadvertence or being in association with bad characters or just to wreck vengeance. Accordingly, he should not be victimized, and should not be made to suffer incarceration, unless the nature of the offence warrants it. Incarceration can have a negative impact on offenders, especially, when they are first time offenders because they are likely to come in contact with criminals charged with serious or heinous offences when sent to prisons. This, in turn, can lead to the possibility of a relapse into crime and even hardening of personality rather than improving social behavior. Probation is an alternative to imprisonment, and is considered the most viable sentencing option for those offenders who are likely not to re-offend, if appropriate supervision is provided. It can be claimed that probation can deter the offenders from recommitting the crime and prevent him from stigmatization as incarceration can often cause a psychological trauma.

II. THE NEED OF PROBATION

Probation is undoubtedly one of the modern concepts of penology in the criminal justice administration of our country. It acts as an alternative to incarceration or imprisonment. 'Probation' is therefore a conditional release of the offenders who are put under an agile supervision of a Probation Officer who in turn tries to rekindle them back into their society. The object of this probation has been well narrated by the Home Office, London in 1969 which helped the Courts as a Hand Book on the Treatment of Offenders, can be stated as follows: "The object of probation, as of all methods of treatment is the ultimate re-establishment of the offender in the community. But probation involves the discipline of submission by the offender, while at liberty, to supervision by probation officer. It thus, seeks both to protect society and to strengthen the probation resources so that the offender becomes a more responsible person. Unlike custodial treatment, which by removing the offender from his family and community tends to suspend his social and economic obligations to them, probation exacts from him a contribution within the limits of his capacity, to their well-being".

It is needless to mention here that efficient performance of the probation service requires not only "scientific skill but also an extensive knowledge of human nature, a warm and sympathetic personality backed up by a strict discipline that results only from a sound education and an adequate professional training". The probation officers should possess not only the proper understanding and devotion to work but must possess a genuine zeal to extend their helping hands to those who have once stumbled and now facing the stringency of law. Probation has thus brought to light a new concept of reformation which shifted the focus from crime to criminal. This in other words can mean that the sentence should fit the offenders and not the offence. The only objective behind enacting the probation laws in our country is to give a chance of reformation to those first time

offenders who are victims of circumstances and are not hardened criminals, so that they can be reformed but if sent to prisons, this opportunity would be lost. As a result of which the very objective of the modern penology would fail to bring about its desired results.

We can aptly remark that the conventional idea of crime and punishment has undergone a paradigm shift in the twentieth century with the gradual development of the modern criminological ideas and thinking. The focus is now on the criminal rather than on the crime, as it was earlier. Imprisonment invariably puts a societal stigma on an offender, whereas on the other hand Probation has an important social virtue which prevents a complete detachment from all the domestic and family ties of the offender. It is therefore regarded as a therapeutic approach to deal with the offenders as treating them like individual patients rather than as criminal groups. And there Probation succeeds in enabling the offender to remain within his own family, own community and within the same society where he belongs to and that too under a strict control and supervision of a probation officer. The first time offenders or who are involved in petty offences, the shield of probation protects them from the ill-effects of the prison life where they become all the more prone to get associated with the recidivists or hardened criminals which in turn make them repeated offenders once they come of the prisons. Here lies the efficacy of Probation which helps in protecting the interest of such offenders keeping in view the very objective of reformation and make them more responsible towards their families and society at large after successfully completing their probation period. An offender gets back to his normal livelihood eliminating all such stigma of being so long, an offender. He thus gets re-adjusted into his own community making him able to lead a healthy normal life. (Chakrabarti & Dube, 2018)

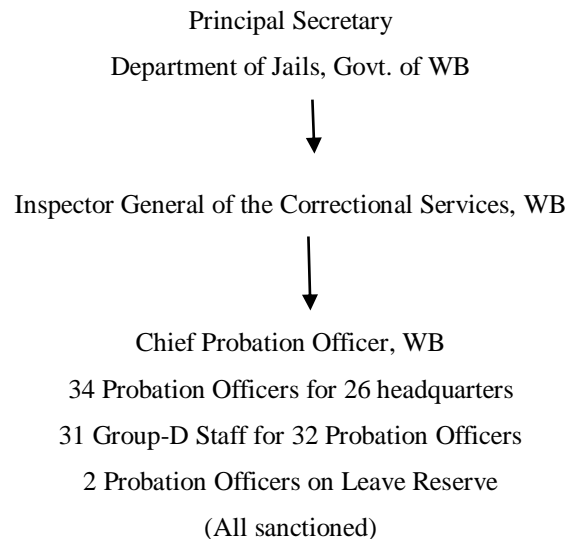
III. PROBATION SERVICES IN WEST BENGAL

Probation system in West Bengal has been in vogue since 1954. The concept of probation of offenders was first enacted in 1954 through West Bengal Offenders (Release on Admonition and Probation) Act 1954 which has laid down the provisions to release the offenders on admonition or probation. The Probation of Offenders Act, 1958, had come into force in all parts of West Bengal from the early sixties. To implement the parent Act of 1958 in whole of West Bengal, a Rule was framed in the year 1960 by the Government of West Bengal. Therefore, in exercise of the power conferred by section 17 of the Act of 1958, the Government of West Bengal, with the approval of the Central Government was pleased to make the rule namely "The West Bengal Probation of Offenders Rules, 1960". However, with the passage of time the role of probation officers have been broadened and reviewed by the law enforcing authorities and sociologists and new enactments have come up. With the promulgation of West Bengal Correctional Services Act, 1992 the role of probation officers has been further broadened and they are now Probation-cum-Aftercare Officers.(Concept Note of IG of Correctional Services, Govt. of West Bengal, 2005) Therefore, the probation system has got a fillip after the introduction of West Bengal Correctional Services Act, 1992. Now, the probation system is being linked with correction of prisoners, rehabilitation of prisoners and also the probation of juvenile offenders and their trials in Juvenile Justice Boards. Service of the probation officers now have been inducted inside the Correctional Homes also to monitor the welfare activities with the help of welfare officers, to become acquainted with the prisoners to be released shortly and to get in touch with the Local Bodies outside, for their rehabilitation.

Since inception, the concept of probation under the criminal justice system of West Bengal has been recognized by the Home (Jails) Jails Department (presently Department of Correctional Administration) Government of West Bengal to materialize the objective of probation through gradual development. Therefore the probation officers are under the departmental control of Home (Jails)/ Jails Department (presently Department of Correctional Administration), Government of West Bengal. The appointments of the probation officers are made by the Jails Department (presently Department of Correctional Administration) subject to the recommendations of the Public Service Commission, West Bengal. The probation officers under the department of Jails (presently Department of Correctional Administration), Government of West Bengal have been working in all parts of West Bengal under the provisions of the Act of 1958 and the West Bengal so called Rules framed in 1960. The Government of West Bengal has sanctioned 34 posts for appointment of probation Officers inclusive of 2 posts for leave reserve under the provisions of sub-rule (1) of rule 2 to cover all parts of West Bengal. The Government of West Bengal has sanctioned 1 (one) post for appointment of Chief Probation Officer, West Bengal under the provision of sub-rule (2) of rule 2 with a view to supervise the work of the probation officers of West Bengal departmentally, observing the performance of the work of the probation officers, enthrusing the probation officers to exercise their influences for the rehabilitation and reformation of probationer (offender released on probation after conviction and placed under supervision of the probation officers), looking after the matters related to the work of probation officers and acting as a state level liaison officer in between the government and the probation officer. At present, there are 23 Districts in the State of West Bengal. The probation officers (at present 20) within the limit of 34 sanctioned posts have been working in different Districts/Sub-Divisions of West Bengal. The offices of the probation officers are generally located at the District Headquarters. The offices of 5 probation officers are located at 5 Sub-Division Headquarters. The Office of the Chief Probation Officer of the State of West Bengal is located in Kolkata. The probation officers of Kolkata District posted at Bankshall court and the probation officer of Sealdah locality posted at Sealdah court are under the administrative control of the Chief Probation Officer of the State of West Bengal. He being the patron of the Probation services in the State , is the drawing and disbursing officer of the probation Officers of Kolkata and Sealdah and the Group-D staff under their control. On the other hand, the probation officers, Kolkata on Leave Reserve are posted at Kolkata Headquarter under the direct control of the Chief Probation Officer, West Bengal. The District Magistrates are the drawing and disbursing officers of the probation officers posted at District Headquarters. The Sub-Divisional Officers are the drawing and disbursing officers of the probation officers posted at Sub-Division Headquarters. The Government of West Bengal has sanctioned 31 posts for appointment of Group-D/4th grade staff to assist 32 probation officers posted at different places of West Bengal (Bankshall court, Sealdah court, District Headquarters and Sub-Division Headquarters) except 2 posts kept for the probation officers who are posted on leave Reserve at Kolkata Headquarter i.e. at the Office of the Chief Probation Officer of the State of West Bengal (Training Handbook of Probation Officers, Govt. of West Bengal, 2005)Administrative Organization of Probation Branch Under the aegis of the Department of Jails(presently Department of Correctional Administration)

Govt. of WB





(Training Handbook for Probation Officers of West Bengal, 2005 published by the Department of Correctional Services, Government of West Bengal (2005) and relevant data as provided by the Office of the Chief Probation Officer, WB)

IV. AN EMPIRICAL STUDY OF THE SUCCESSFULLY RELEASED PROBATIONERS IN WEST BENGAL (covering 8 Districts)

The present paper will throw light on the effectiveness of the Probation system in the State of West Bengal. The author has undertaken an empirical study on the socio-economic aspects of the probationers who have successfully completed their probation period under the supervision of a Probation Officer. The author has covered 8 Districts of the State of West Bengal viz. Kolkata, South 24 Parganas, Howrah, Purba Medinipur, Paschim Medinipur, Purulia, Hooghly and Nadia to study how far the probation system is effective in mainstreaming them in the society as an alternative to incarceration. The author followed an interview method in order to find out the socio-legal status of such probationers, their age, educational qualifications, the nature of offence they are charged with, their occupational status while being convicted, scope of vocational training while undergoing their probation period and what after-care services were being provided after their successful completion of the probation period.

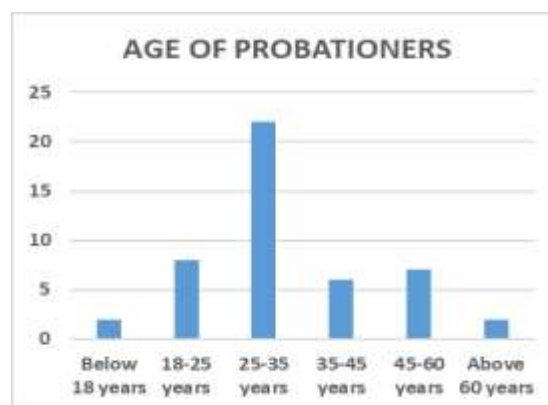


Figure 1: their successful completion of the probation period.

The above chart clearly shows the disparity in the age groups of the probationers clearly showing that the offenders more generally fall in the 25-35 age group depicting a fall in the rate of juvenile probation as well.

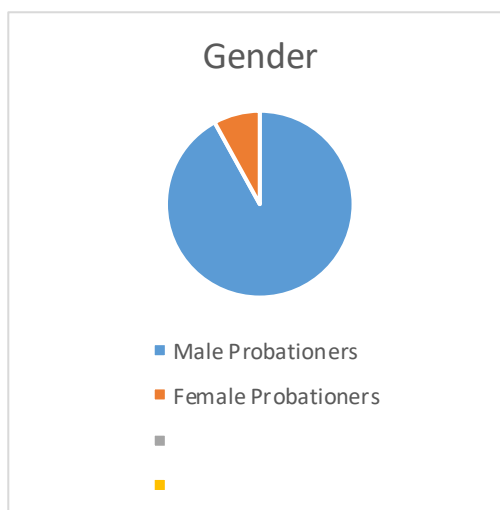


Figure 2: the gender

The above figure shows that gap is prominent with most of the ex-probationers being male than female.



Figure 3:the probationers belong to socially and economically weaker

The above graph depicts that most of the probationers belong to socially and economically weaker sections of the society. Their educational status is also poor most of them not having the basic elementary education also. Out of the interviewed samples most of them are either Daily wage Labours or Agricultural Labours without any proper sustenance of life.

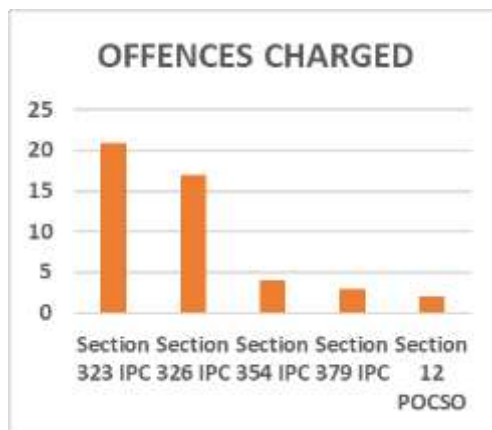


Figure 4: the offences, the interviewed probationers

The above picture shows the nature of the offences, the interviewed probationers are generally charged with. Most of them are indulged into petty issues relating to title over land or any other allied matters connected to their property. They are not habitual offenders too and somehow in the heat of the moment has committed such offences under certain provocation and suitable circumstances favoring commission.



Figure 5: of the probation period for which most of the probationers

The above figure shows the duration of the probation period for which most of the probationers are under the supervision of a probation officer. The court has mostly ordered for one year probation term as thought fit for a viable reformation of the offender into the mainstream of the society.

VI. FINDINGS OF THE STUDY

The study conducted by the author reveals that probation system in itself is a success but the rate of probation orders against the number of convicts over the years make the picture yet more grim. This can be attributed to the notion of the judiciary which is more inclined towards others forms of punishment rather than resorting to probation which can be an effective measure of reforming the offenders and uplifting the modern objective of criminology. Moreover, it came to light that even if probation orders are given, which are very less in number, the judges generally don't call for the pre-sentence reports from the probation officers. Further, in the event probation is not granted, they don't write down the reasons for such not granting probation, which is a

mandate of what has been enshrined under Section 361 of the Criminal Procedure Code, 1973. Therefore a good coordination between the judiciary and the probation officers can reap utmost benefits to make this system a successful one. The system lack proper infrastructural facilities, transportation problems while dealing with the offenders. The Probation Officers have to cover far of distant places to reach out to the probationers for paying regular visits and other enquiries before submitting their reports. Most of the time the Probation Officers are overburdened and pre-occupied with other works as assigned by the Department of Correctional Administration like looking after the welfare of the prison inmates, to conduct enquiries for pre-mature release of life convicts, election duties, etc. rather than what is envisaged under the Probation of Offender's Act, 1958 and with what they are entrusted with. Even the number of probation officers are too less to tackle even the sub-divisional courts for getting probation orders. It has been found that the real dispute which had indulged the offenders to resort to some offence for which they had been convicted remains unsettled in most of the cases. But most of the Probation Officers out of their own volition have tried to solve the underlying dispute/problem between both the parties which actually led to the mishap and were convicted. This actually helps in understanding whether the criminal mind is still present in the offenders which may tend them to repeat the crimes again making the whole Probation system futile. Hence solving the underlying problem between the parties in dispute is a must to uphold the efficacy of the Probation System as a whole. The author also observed that though the Probation Officers are designated as Probation cum After Care Officers by virtue of the West Bengal Correctional Services Act, 1992, but they are not discharging any such After Care services to the released probationers once they have successfully completed their probation period which they are required to provide through any sort of gainful training for their proper rehabilitation or any vocational training or like to those probationers so that they can acquaint themselves with adequate means so that they can be rehabilitated properly into the society by means of some gainful employment opportunities. Though few officers, out of their own volition have arranged opportunities to undertake training in motor training schools, availing loans at government subsidized rates, industrial trainings at Govt. aided workshops and enterprises, cooking opportunities etc. There must be some statutory or administrative help in this regard so that gainful employment opportunities must be provided to these probationers after their probation period so that they do not find any difficulty in sustaining their life. The very essence of the Probation system can then be best upheld in proper letter and spirit. The efficacy of the probation system lies in the fact that the offender is not merely given "another chance" to prove his worth but how the system gives him ample opportunities with constructive assistance to go back to his normal livelihood in his struggle for social rehabilitation. The major shortcomings of the system has indeed put forward a question before us that whether rehabilitation of the probationers is really a myth or not.



The Judge convicts





Either Incarcerated OR



RE-SOCIALIZATION THROUGH PROBATION



& THE PROBATION OFFICER PLAYS A PIVOTAL ROLE IN SUCH RE-SOCIALIZATION PROCESS
UNDER PROBATION

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