



ISSN 2278 – 0211 (Online)

## Concept of Probation

**Madhusudhan P. S.**

Research Scholar, Department of Criminology and Forensic Science, Maharaja's College, Mysuru, India

**Dr. B. Nagarajamurthy**

Principal & Research Guide, Department of Criminology and Forensic Science, Maharaja's College, Mysuru, India

**Abstract:**

*Probation was a correctional method under which the sentences of selected offenders could be conditionally suspended upon promise of good behaviour and agreement to accept supervision and to abide by specified requirements including usually reporting to a probation officer or to the court at regular intervals.*

**Keywords:** Probation, Offender, suspended, supervision, good behaviour

### 1. Introduction

The term 'probation' was derived from the Latin word 'Probare' meaning to test or to prove. This meaning of the term constitutes the essence of probation even in the contemporary context although probation has gone far ahead shedding its traditional legalistic connotation. Correctional literature was almost flooded with definitions of probation. Diana (1960), however, reviewed a number of these definitions and grouped them into the following six categories:

#### 1.1. Legal Disposition Only

Such definitions tend to view probation simply as a suspension of sentence by the court. The offender remained in the community until the length of sentence expired unless of course in the meantime he had engaged in any conduct that would warrant carrying out of the sentence. This system left everything on to the probationer and made probation as a simple policing procedure. It implied two things to the probationer: a) another chance; and b) threat of punishment, lets he failed to improve his conduct. Mostly, persons with legal background defined probation as above.

#### 1.2. Measure of Leniency

Probation as leniency was a definition which was seldom expressed in literature. Diana (1960) reported such a finding only once during his survey. This view, however, seems to be held most widely by the general public and the offenders who often viewed probation as a device for "letting off". In view of this understanding it was rather wrongly conceived by them that the offenders whose acts were unfortunate slips, were therefore, not in any need of treatment whether punitive, preventive, or corrective in nature.

#### 1.3. Punitive Measure

According to these definitions probation was viewed as a form of punishment, which while permitting the offender to escape commitment to a penal or correctional institution, made other demands, the non-fulfilment of which, subjected the offender to receive some kind of punishment which the other like offenders got.

#### 1.4. Administrative Process

Such definitions tend to view probation as the execution of concrete measures aimed at helping the offender stay out of trouble. This view stressed Probation Officers role in investigating and supervising his clients, assisting them in finding work or training, and enforcing the terms and conditions of probation. Interestingly enough, probation as an administrative process was beginning to re-assert itself, particularly through concepts, such as "term probation" in which, process and functional division of responsibility assumed increasing importance.

#### 1.5. Social Casework Treatment

Probation according to these definitions was viewed as a form of treatment administered by probation officers on a case-work basis, applying case-work principles and techniques, in dealing with the offenders.

### 1.6. Combination of Casework and Administration

From this point of view, probation was represented both by case-work functions and by administrative or executive procedures. This combination of casework and administration recognised that they were both applied simultaneously in the practice of probation. What changed from one situation to another was the emphasis. For example, a stable middle aged housewife on probation for vehicular manslaughter would probably receive probation services which could be described as primarily administrative and her probation might amount to little more than periodic "reporting in. Whereas a young high school drop-out with some drug involvement placed on probation for purse snatching would on the other hand receive a much more casework oriented probation.

The most commonly accepted definitions were those that treated probation as a method of treating offenders by releasing them on good behaviour on the conditions prescribed by the court and under the guidance of probation officer. The Manual of Correctional Standards (1966) defined probation "as a sentence, a judicial disposition which establishes the defendants legal status under which his freedom in the community is continues, subject to supervision by a probation organisation and subject to conditions imposed by the court. "According to the American Bar Associations 'Standards Relating to Probation' (1970) the term probation meant, " a sentence not involving confinement which imposes conditions and retains authority in the sentencing court to modify the conditions of sentence or to re-sentence the offender if he violates the conditions".

Pigeon (1942) treated probation as a form of disposition made by the court wherein the offender instead of being committed to a penal or correctional institution, was afforded the opportunity to live in the community and regulated his own life under conditions imposed by the court and under the supervision of a probation officer.

A perusal of all these definitions indicated that probation was principally used in four ways:

- a. As a court Disposition it was a suspension of sentence subject to supervision on certain conditions laid down by the court.
- b. As a status it reflected the position of an offender sentenced to probation; the status had implications different from that of either a free citizen or a confined offender.
- c. As a system of corrections, or sub-system of criminal justice administration, it referred to the agency or organisation that administered the probation process for juvenile and adult offenders.
- d. As a process it referred to the set of functions, activities, and services that characterised the systems transactions with the court, the offender, and the community. The process included preparation of reports for the court, supervision of probationers, and obtaining and providing services for them.

A synthetic view of these four ways in which probation was being currently used suggested that probation presently was a process which provided the judge with an alternative disposition that resulted in an improved status for the offender within a sub-system of criminal justice system.

## 2. Advantages

The advantages inherent in this ingenious method of treatment were:

1. It made the offender realize that the criminal law had been a bit lenient towards them in order to let them prove that the crime they had committed was a mere accident and not the inseparable part of their criminal disposition and that they needed a humanitarian approach to make positive amends in their personality, behaviour, attitude, and outlook towards life under conditions of benevolence rather than those which tend to teach a lesson by providing them a bitter dose of prison incarceration.
2. It made possible for certain offenders to remain within the community and thus continue meeting their family duties and obligations without posing any further danger to the protection and safety of the society. The purpose was to treat such offenders within the community and not beyond it.
3. It helped in averting the stigma of prison sentence in case of offenders who were not really dangerous and deserved to be saved from debilitating effects of prison incarceration.
4. It helped the community in experimenting a programme through which it could change its errant human material into a potential asset.
5. It was also help to the community in saving the expenditure on maintaining a certain section of offenders population in the prison, who could be better treated by less costly but equally, if not more, effective methods of community based corrections.

## 3. Conclusion

Probation avoids the shattering effect upon individual personality which frequently follows imprisonment. Probation keeps the man's personality in its old moorings; it makes no violent and sudden wrench in his daily habits; it does not destroy his family relations, his contacts with his friends, and his economic independence. All that is good and desirable in his old habits is retained; every contact, interest, emotion and habit which can be utilised to keep his relations with his community with in the expected norm come automatically into play and become powerful factors in straightening the individuals habit patterns back to normal. The crime for which the man was arrested is not dramatized and used as a reason for disrupting the rhythm of his life.

## 4. Reference

- i. Abraham Blumberg, "Criminal Justice" (Chicago: Quadrangle Books, 1970), pp. 143-154, Dawson, "Sentencing", pp. 35-41
- ii. Abraham Blumberg, "Criminal Justice" (Chicago: Triangle, 1967), PP. 143-167.
- iii. Allen, H.E and Simenson, C.E. "Corrections in America: An Introduction", Glenive Press, U.S.A. 1975, p.122.

- iv. American Correctional Association, "Manual of Correctional Standards" College Park, Maryland, USA, 1966.
- v. Braswell, M.C. "Correctional treatment and the human spirit: A focus on relationship". Federal Probation, 63 (2) 1989, pp.49-60
- vi. Byrne, J.M. "The future of intensive probation supervision and the new intermediate sanctions". Crime and Delinquency, 36(1), 1990. p.27.
- vii. Caldwell.R, "Criminology" , Ronald Press Company, Newyork, 1956
- viii. DeJong, W., & Franzeen, S. "On the role of intermediate sanctions in correctional reform: The views of criminal justice professionals". Journal of Crime and Justice, 16(1), 1993 p.66.
- ix. Gendreau, P., & Paparozzi, M. "Does "Punishing smarter" Work? An assessment of the new generation of alternative sanctions in probation". Forum on Corrections Research, 6(3), 1993. p.34.
- x. John Augustus, "First Probation Officer, National probation Association", 1939m p.VII.
- xi. Louis P Carney, "Corrections and the Community", Prentise-Hall, Inc, Englewood, Cliffs, NJ (1977).
- xii. Louis P. Carney, "Probation and Parole: legal and social dimensions" , New York, McGraw-Hill Book Company, U.S.A, 1977, p.37
- xiii. Norval Morris and Michal Tonry, "Between Prison and Probation", (New York) Oxford University Press, 1990. P.179.
- xiv. Petersilla. "A Crime Control Rationale for reinvesting in Community Corrections." Perspectives 20 (Spring) 1996: p. 21-29 and Petersilla. "Probation and Parole, the Handbook of Crime and Punishment", Ed. < Tonry. New York: Oxford University Press, 1998. pp. 563-588.
- xv. Prof. Paranjape N.V.: "Criminology and Penology with Victimology" Central Law Publication, 2012 (15<sup>th</sup> Ed.) P.523.
- xvi. S.L.Tandon (1987) "Social Defence", July 1987, P.13
- xvii. Sutherland, E.H and Cressay, D.R."Principles of Criminology" (6<sup>th</sup> Ed.) the Times of India Press, (1965). P.403