PROBATION SYSTEM IN ASSAM: A LEGAL ANALYSIS

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The present study examines the functioning of the probation system in the state of Assam and the role of various stakeholders in it. Further, it seeks to draw inferences from community-based probation systems prevalent in select countries. The researcher adopted an exploratory research design to carry out the present study. This study is inductive research, as there is no adequate literature available in the chosen area of study. Implications of the present study are that an effective probation system can be achieved through a reintegration approach to corrections, and it is through community engagement that the probation system can be made more effective and liberal. However, community-based probation can only supplement institution-based probation and cannot supplant it. Therefore, proper institutional-based probation also needs to be set up by the State Government.

Keywords: Corrections, Probation, Rehabilitation, Reintegration

INTRODUCTION

The principle of reformation of offenders was highlighted by the India Jails Committee Report of 1919-1920, and subsequently two important developments after independence i.e. the visit of UNO subject expert on prisons reforms, W.C. Reckless, in 1951, and the All India Conference of Inspectors General of Prisons in Mumbai in 1952, were milestones towards the making of a specific law on probation in India. While the Report on 'Jail Administration in India' by Dr. Walter C. Reckless, a UN Expert on Correctional Work (1951-52), recommended transforming prisons into reformation centers, setting up full-time probation and revising boards for aftercare services etc., the All-India Conference of the Inspectors General of Prisons took a resolution (Resolution No.26)

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on ‘Probation, Parole, and Aftercare’ as “The Uttar Pradesh First Offenders Act should be introduced in all the States, and the provision of the Act should be made applicable to all prisoners regardless of age, and an Act on the lines of the Uttar Pradesh Prisoners Release on Probation Act should also be adopted by the States. Probation officers should be appointed in every district in all the states. It was generally agreed that the appointment of probation officers would result in a considerable saving to the state governments in as much as the release of prisoners under probation would avoid expenditure on the maintenance of prisoners in jails.” The All-India Jail Manual Committee (1957-59) in their report also recommended the use of probation, and in this regard the report says that “Probation should be more extensively used than at present in respect of delinquent children and adolescent offenders; to facilitate this, each state should organize a wide network of probation services.’ As a result of all these developments, the Probation of Offenders Act, 1958, came into being along with the Children Act, 1960, and the Central Bureau of Correctional Services, 1961 (now called the National Institute of Social Defence).

LEGISLATIVE FRAMEWORK OF PROBATION IN INDIA

The legislative framework on probation in India includes the Code of Criminal Procedure, the Probation of Offenders Act, 1958, as well as other laws.Section 562 of the CrPC, 1898, was the earliest provision and, in fact, the first statutory expression of the penal system reflecting probation philosophy. According to the same, probation implied release on probation for the first-time offenders at the discretion of the court for minor offences up to 2 years of imprisonment. Section 562 of the CrPC, 1898, the first recognition of the probation philosophy in Indian Law, was followed by the Children Act, 1908, which allowed the release of certain types of offenders on probation. Presently, Section 360 of the CrPC,1973, deals with release on probation of good conduct or after admonition upon judicial discretion. Another important section under CrPC, 1973,

is Section 361[2], which requires special reasons to be given for not granting benefits under Section 360 and under the Probation of Offenders Act, 1958.However, the most comprehensive law relating to probation in India is the Probation of Offenders Act, 1958, a central legislation for the purpose of probation in India that may be made applicable to a state by the state government. The Indian Jail Committee (1919-20) recommended for its adoption, and legislation was enacted in 1923 as an outcome of the committee's recommendations. That was followed by another Draft Probation of Offenders Bill in 1931, which could not become a law. Another bill on probation of offenders was introduced in the Lok Sabha in 1957. In the same year the said bill was discussed both in the Lok Sabha and the Rajya Sabha, a joint committee was formed for considering the bill, and finally the bill got presidential assent on 16th May, 1958, and came to be known as the Probation of Offenders Act,1958.

The Probation of Offenders Act, 1958, a central legislation, has the objective of reformation and rehabilitation of the offender as a useful and self-reliant member of society without subjecting him/her to the deleterious effects of jail life. To that end, the Act provides for the release of offenders on probation or after due admonition and for matters connected therewith. Moreover, the application of Section 360 Cr PC is barred u/s 19 of the Act to the States or parts thereof in which the Act is brought into force.

RESEARCH METHODOLOGY

The present study is an empirical work being carried out by following an exploratory research design to understand the impact of the present probation system in Assam and what is required to be done to make it effective and liberal. There is very meager literature available in this area of research, and therefore, the researcher followed the inductive method to explore new ideas for the

[2] Code of Criminal Procedure, 1973, § 361.

betterment of the existing system. Primary data was collected through semi-structured interviews with different stakeholders, Judicial Officers, Practising advocates, Prison Officials, Probation Officers, Jail inmates etc. Secondary data was obtained from National Library, Kolkata, Judicial Academy, Assam, Assam State Legal Services Authority, District Legal Services Authority, Inspectorate General of Prisons and Department of Women and Child Development, Govt. of Assam. Apart from that, tertiary sources included Digital Archives of Gauhati High Court and District Courts, Digital Library of Assam and Online resources like Manupatra and SCC online, etc.

FINDINGS OF THE STUDY

Enforceability and application of probation laws in Assam:

The probation system in Assam can be said to have its inception in the year 1962, when the Governor of Assam made the Assam Probation of Offenders Rules, 1962, in pursuance of the powers vested with him under sub-section (I) of Section 17 of the Probation of Offenders Act, 1958. The Assam Probation of Offenders Rules were published in the Assam Gazette on July 18, 1962. This was a major milestone in the implementation of the Probation of Offenders Act, 1958 as it provided an operational framework within which the Act ought to operate.

1. Enforceability of the Probation of Offenders Act

Section 1, sub- section (3), of the Act reads as follows:

The Probation of Offenders Act, 1958 shall into force in a State on such date as the State Government may, by notification in the Official Gazette appoint, and different dates maybe appointed for different parts of the State.

Rule 2. (e), of the Assam Probation of Offenders Rules, 1962 reads as follows:

"Probation district" means a district or a bigger or smaller area as may be specified bythe State Government.

The following details in this connection are available:

Appointed date on which the Act came into force	Name of districts	Gazette Notification details	Date of publication in Assam Gazette	Specified as a probation district or not?
July 16, 1962	Kamrup and Nowgong	DSW(G) 24/60/119 dated June 29, 1962	July 4, 1962	No
June 1, 1963	Sibsagar, Darrang and Cachar	DSW (G) 36/62/99, dated May 3, 1963	May 15, 1963	Yes
September, 16, 1963	United Khasi-Jaintia Hills, Goalpara and Lakhimpur.	DSW (G). 36/62/154, dated September 14, 1963,	September 25,1963	Yes

In the absence of similar notifications for the rest of the state, it appears that the Probation of Offenders Act, 1958, is not yet enforced in all of Assam except in the six districts mentioned above. However, courts have been affording the benefit of probation in specific cases under the provisions of the Code of Criminal Procedure, as evident from the subsequent findings.

Thus, at present, the Act is not in force in all districts out of 31 administrative districts in Assam. The Act was first brought in the state at a time when the number of districts was less than half of the present number of districts. July 16, 1962, was appointed as the date on which the Act came into force in the districts of ***Kamrup and Nowgong***[3] . The Act came into force in the districts of ***Sibsagar, Darrang and Cachar*** on June 1, 1963[4]. The said three districts were also specified as the probation districts[5] on the same date on which the previous notification was published. In the

[3] Assam Gazette Notification No. DSW(G) 24/60/119 (June 29, 1962), published in the Assam Gazette (July 4, 1962).

[4] Assam Gazette Notification No. DSW(G) 36/62/99 (May 3, 1963), published in the Assam Gazette (May 15, 1963).

[5] Assam Gazette Notification No. DSW(G) 36/62/100 (May 3, 1963), published in the Assam Gazette.

districts of ***United Khasi-Jaintia Hills, Goalpara and Lakhimpur,*** the Act came into force on September 16, 1963[6]. These three districts have also been specified as probation districts.[7] Suffice it here to mention that specifying districts as the probation districts is a requirement under rule 2(e) of the Assam Probation of Offenders Rules, 1962[8]. However, for Kamrup and Nowgong, no similar notification could be found. Moreover, these are the only gazette notifications available in relation to the Probation of Offenders Act, 1958, in Assam. This implies that with the increase in number of districts, no new probation district has been declared by the state government.

2. Application of Probation laws by courts

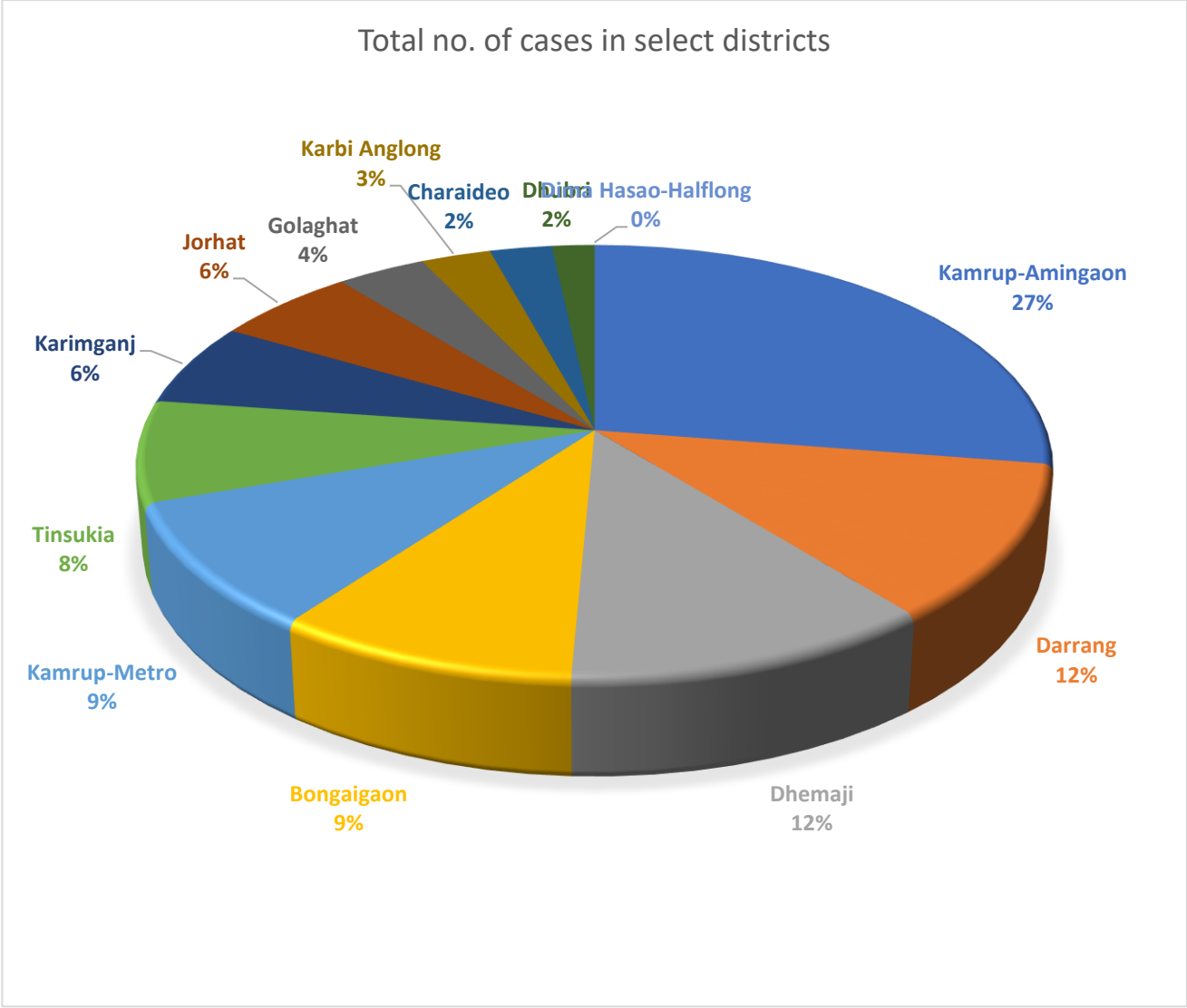
District-court-wise data on cases dealt with under the Probation of Offenders Act, 1958, and/or S.360 Cr.PC. of the **last twenty years** was received from 13 District Legal Services Authorities inAssam. Major findings are stated below:

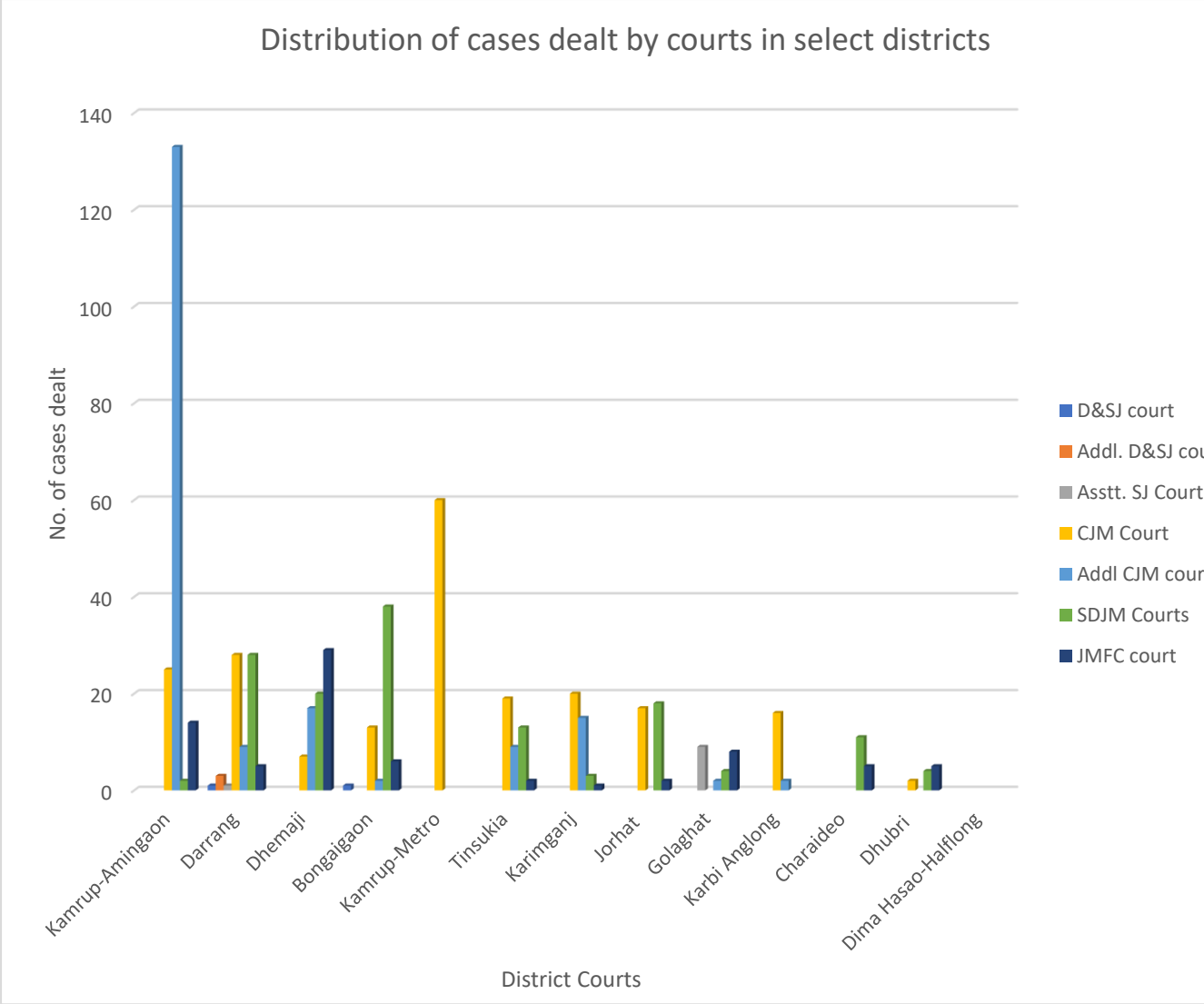
(Figure 1)

[6] Assam Gazette Notification No. DSW(G) 36/62/154 (Sept. 14, 1963), published in the Assam Gazette (Sept. 25, 1963).

[7] Assam Gazette Notification No. DSW(G) 36/62/155 (Sept. 14, 1963), published in the Assam Gazette (Sept. 25, 1963).

[8] Assam Probation of Offenders Rules, 1962, r. 2(e).


Total no. of cases in select districts
Karbi Anglong
3%
Charaideo
2%
Dhubri
2%
Dima Hasao-Halflong
0%
Golaghat
4%
Jorhat
6%
Karimganj
6%
Kamrup-Amingaon
27%
Tinsukia
8%
Darrang
12%
Kamrup-Metro
9%
Bongaigaon
9%
Dhemaji
12%



(Figure 2)

1. 2 districts, i.e., Kamrup-Amingaon and Darrang, in which the Probation of Offenders Act has been brought into force by government notifications, the number of cases is comparatively higher than the rest of the districts. Kamrup-Amingaon district has the highest number of cases, i.e., 174, followed by Darrang district with 74 cases.

2. Dhemaji district is also remarkable in terms of the number of cases dealt in this regard. The total number of cases in Dhemaji district is 73.
3. Incidentally, Kamrup (Metro), where the Act is in force, has only 60 nos. of cases, all cases dealt under the Probation of Offenders Act.
4. Dima-Hasao-Halflong, a newly established district court in 2017, has nil cases dealt under provisions of probation law. Dhubri district, which was part of the erstwhile Goalpara district where the Act was brought into force in 1963 itself, has only 11 cases pending under the provisions of probation law.
5. Most cases dealt with under probation law are those punishable under the IPC. However, it is found that the benefit of probation has also been extended in a few cases punishable under the POCSO Act, the Arms Act, the Assam Excise Act, and the Indian Railway Act.
6. The data is indicative of cases dealt under Section 3 i.e., admonition, and Section 4 i.e., probation under the Probation of Offenders Act in Karbi Anglong. Similarly, in Karimganj district court data specifies cases released on probation bond. However, none of the district courts has specified if the report of the probation officer was called for or court-ordered supervision by the probation officer during the period of probation in any of the cases.
7. The total number of cases in 13 districts is 633 in the last twenty years. On average, there are 49 cases in one district court, which come to 3 cases a year in a district. This figure reflects that the benefit of probation has not been properly extended.
8. Districts such as Karbi Anglong, where the Act has not been brought into force, have also applied the Act in appropriate cases.

3. Respondents' views on Enforceability and Application of Probation Laws in Assam

The Judicial Academy, Assam, also confirmed the fact that some districts have not been brought within the purview of the Probation of Offenders Act in Assam, as the state government has not notified them to that effect[1]. Notifications are available for Kamrup, Nowgong, Sibsagar, Darrang, Cachar, Goalpara, and Lakhimpur only[2]. In districts where the Probation of Offenders Act is not notified, Section 360CrPC is followed. According to a District and Sessions Judge (Retd.), practically all courts in Assam are not resorting to Section 360 and Section 361 of the CrPC. Wherever applicable on A case-to-case basis, the provisions of the PO Act for releasing the young offenders on probation are being followed or implemented. Another serving judicial officer (anonymous) also seconded the same opinion. However, the actual implementation of the Act is a matter of research or survey-both of them stated.

Advocates also have given their opinions about the enforceability of the probation law in Assam, such as

- ✓ Section 360 Cr PC is not relied upon regularly by the courts, and in fact, courts are not inclined towards invoking the provisions under CrPC or the Probation of Offenders Act.
- ✓ Section 360 of Cr.PC should be deleted from the book of statute, as probation legally cannot happen without supervision of the probation officer.
- ✓ The conviction rate is so low in Assam that courts very rarely invoke Section 360 of the CrPC and courts may also have an apprehension that such practices send the wrong signal to the society.
- ✓ Never seen any implementation of the Probation of Offenders Act in this region and, probation officers are not appointed, and, as such, courts take their own course and release the offenders with some conditions.

[1] *supra* note 8.
[2] *supra* note 8.

- ✓ No institutional mechanism to supervise the fulfillment of conditions imposed on a convict by the court.
- ✓ Wherever court deems expedient and necessary, section 360 Cr.P.C is applied and not the Probation of Offenders Act.
- ✓ Courts in Assam apply probation, both under CrPC as well as under the Probation of Offenders Act, in suitable cases at their discretion, etc.

4. Application of Probation Laws in Assam---Judicial Trends

The Hon'ble High Court at Gauhati, the jurisdiction under which the present study is being carried out, however, has pronounced many judgments affording the benefit of probation to suitable cases. Unless otherwise impossible, the judicial trend is seen to be more in favour of probation at the Gauhati High Court. In *Atum Lengmei and Ors. Vs. Respondent: Manipur Administration*[3], for instance, both the offenders were below the age of 21 years and were convicted by the trial court under Sections 395/397 and 342 of the IPC. One of the key questions for determination for the High Court was the applicability of the Probation of Offenders Act without designated Probation Officers being appointed for the purpose of the Government. The Hon'ble High Court in this regard held that 'The question therefore arises what should be clone in the present case. Section 6(2) provides that for satisfying whether it would not be desirable to deal with the appellants under Section 3 or 4, the Court shall call for a report from the Probation Officer and consider the report and any other information available to it relating to the character or physical or mental condition of the offender. Thus, before sentencing the petitioner for the conviction under Section 342, it is necessary that a report should be called for from the Probation Officer. But I understand from the Advocate appearing for the State that no probation officer has been appointed in the Union Territory of Manipur

[3] Atum Lengmei & ors. v. Respondent: Manipur Administration, MANU/GH/0011/1961.

under Section 13 of the Probation of Offenders Act. Thus, it is not possible to call for a report from the Probation Officer. It will be better that the Administration of this Territory appoints a Probation Officer under Section 13(1)(a) of the Act immediately or at least designates a person provided for the purpose by a Society recognised in that behalf by the Administration as provided under Section 13(1)(b) of the Act. The sooner this is done the better it will be. Otherwise the purpose of the Probation of Offenders Act will be nullified'.

Institutional framework of Probation System in Assam:

There are two institutional frameworks-the probation Officer and the department in the state government--overseeing the matters pertaining to the Probation of Offenders Act. Discussed below are the workings of these two institutional machineries ever since the time the law was brought into force in Assam.

1. Probation Officer

According to the respondents of the present study, in the past, District Social Welfare Officers discharged their responsibilities as Probation Officers. In fit cases, Magistrates used to call for a report from the probation officer. The practice of District Social Welfare Officers discharging the duty of Probation Officer continued till 1989-90, when 17 persons were recruited by the Assam Public Service Commission to be appointed as Probation Officers in the Social Welfare Department. However, since then, people appointed to the said positions have been working only for the Juvenile Justice Act. But the fact that cannot be ascertained is whether the positions were created under the Probation of Offenders Act, 1958, or the Juvenile Justice Act, 1986, since no gazette notification related to the appointment of the probation officer could be traced. It is also worth mentioning here that the probation officers of 16 districts were redesignated as

Probation Officer cum District Child Protection Officer with the launching of ICPS by the Govt. of India[4] and subsequent signing of an MoU with the State Government for the creation of a District Child Protection Unit. Presently there are also Legal -cum-Probation Officers in Assam[5]. But both Probation Officers as well as Legal-cum-Probation Officers in Assam, at present, implement the Juvenile Justice Act and not the Probation of Offenders Act.

2. Departmental Control of PO Act

The Assam Probation of Offenders Rules 1962 mentions the Directorate of Social Welfare to be the controlling department on matters related to the PO Act, 1958. As per record, the Directorate of Social Welfare was created by Govt. of Assam in 1960 and made permanent in 1965, and a full-fledged Social Welfare Department came in 1965. However, the erstwhile Social Welfare Department does not exist now and, instead of that, there are two departments, namely, the Department of Women and Child Development and the Department of Social Justice and Empowerment[6]. Presently, the Directorate has two sectors -Women and Child Development and Social Justice and Empowerment. The former focuses on improving nutritional status of children, adolescent girls, pregnant & lactating mothers, capacity building through skill development for women, welfare of senior citizen, and improving socio-economic status of persons with disabilities. Whereas the latter has the objectives of Empowerment and Mainstreaming of Persons with Disabilities, rehabilitation programmes for drug addicts, alcoholism etc., health care, social and financial security for senior citizens. Importantly, Probation of Juvenile Offenders is kept as an independent function of the Department of Women and Child Development, along with 11 other functions, including the

[4] Ministry of Women and Child Development, *Integrated Child Protection Scheme (ICPS)*, PRESS INFORMATION BUREAU (Jan. 10, 2014), https://pib.gov.in/newsite/PrintRelease.aspx?relid=101786.

[5] Juvenile Justice (Care and Protection of Children) Act, 2015, § 2(48).

[6] Government of Assam, Notification dated Aug. 31, 2022.

Juvenile Justice (Care and Protection of Children) Act. The aforesaid bifurcation indicates that offenders above 18 years are not under the administrative control of the Department of Women and Child Development, and there is no institutional machinery in the state for departmental control of probation officers as stipulated in Part II of the Assam Probation of Offenders Rules, 1962. The present Directorate of Women and Child Development, Govt. of Assam, in writing, also confirmed that the Probation of Offenders Act does not relate to the Directorate of Women and Child Development, Assam.

3. Detailed functioning of the Probation System in Assam

In the year 1989-90, recruitment was made by the Assam Public Service Commission towards filling the positions of Probation Officer in the Social Welfare Department. But the fact that could not be ascertained is whether the positions were created under the Probation of Offenders Act, 1958, or the Juvenile Justice Act, 1986. The Juvenile Justice Act (JJ Act, 1986), published on 1st December 1986, came into force throughout India, except in Jammu and Kashmir, on October 2, 1987[7]. The Juvenile Justice (Assam) Rules, 1989, were also notified vide no. TAD/SW/352/87/9 dated 27th January 1989. There is a definition of Probation Officer given in the JJ ACT, 1986, but the JJ (Assam) Rules, 1989, are silent about qualifications, appointment, and conditions of service etc. of Probation Officer unlike the Probation of Offenders Act,1958. Section 2. (q) of the JJ Act, 1986 defines Probation Officer – ‘’means an officer appointed as a probation officer under this Act or under the Probation of Offenders Act,1958”. Nevertheless, it was confirmed by three persons who served as Probation Officer cum District Child Protection Officer in districts that all sixteen plus one Probation Officers were discharging their duties[8] under the Juvenile Justice Act, 1986 only. It is also worth

[7] Gazette of India, pt. III, § 3(i) (Aug. 13, 1987).
[8] Juvenile Justice (Assam) Rules, 1989, r. 44.

mentioning here that the Probation Officers of 16 districts were redesignated as Probation Officer cum District Child Protection Officer with the launching of ICPS by Govt. of India[9] and subsequent signing of MoU with the State Government for the creation of District Child Protection Unit.

It is evident from the above analysis that the Probation Officer appointed under the Probation of Offenders Act, 1958, could act as Probation Officer for the purposes of the Juvenile Justice Act, 1986 [10]. But vice versa is not possible, as rule[11] does not permit the same. On perusal of the Assam Children Act, 1970, it was found that there are provisions for appointment of Probation Officer [12] and making rules[13] pertaining to qualifications, duties, recruitment, training etc. of Probation Officer. The Assam Children Rules, 1976, empowers the State Govt. under Rule 3 clause (3) to appoint Probation Officer[14].

The new Juvenile Justice Act (Care and Protection of Children) Act, 2015 defines[15] probation officer as an officer appointed by the State Government as a probation officer under the Probation of Offenders Act, 1958 or the Legal-cum-Probation Officer appointed by the State Government under District Child Protection Unit. Legal -cum-Probation Officers are working in every district of Assam at present and therefore a separate cadre of Probation Officers ought to be there for the implementation of the Probation of Offenders Act, 1958. The Directorate of Social Welfare, Government of Assam could not give the details of the same in the first instance.

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[9] Ministry of Women and Child Development, *Integrated Child Protection Scheme (ICPS)*, PRESS INFORMATION BUREAU (Jan. 10, 2014), https://pib.gov.in/newsite/PrintRelease.aspx?relid=101786.

[10] Juvenile Justice Act, 1986, § 2(q).
[11] Assam Probation of Offenders Rules, 1962, r. 3(1).
[12] Assam Children Act, 1970, § 53(1).
[13] Assam Children Act, 1970, § 59(2).
[14] Assam Children Rules, 1976, r. 3(3).
[15] Juvenile Justice (Care and Protection of Children) Act, 2015, § 2(48).

WAY FORWARD: COMMUNITY BASED PROBATION

Apart from institutional based probation, there are also various models of community-based probation working in different parts of the world and in some parts of India. Community-based probation is a concept wherein there is the involvement of the community in the working of the probation system. Community involvement or civil society engagement in criminal justice was highlighted for the first time in the Gladstone Committee Report of 1895, which was set up in the United Kingdom to look into the conditions of British prisons and give recommendations. According to Harding (1988)[16] this report was welcomed as 'the beginning of a beneficent revolution ' and is conveniently used to identify a shift away from a rigid penal approach to a more 'reformative' system of imprisonment. The Gladstone Committee Report, inter-alia recommended that the community outside prisons should help to train prisoners, and society should maintain a sense of responsibility towards discharged prisoners for their social rehabilitation. The Canadian Committee Report on Corrections[17] (1969,) which elaborately deals on Probation, mentions that Probation should not be seen as leniency but as a form of treatment selected after an objective assessment of the situation. In fact, many offenders find probation more difficult than prison since responsibility for his own actions rests on him more heavily while he is on probation. The Committee, therefore, recommended that probation should be expanded by adopting new techniques and facilities such as Probation Hostels, Use of volunteers, Attendance-Centers and Group Work Methods. In the Indian context, three developments in this connection may be noted- The Report of the All-India Committee on Jail Reforms under the chairmanship of Mr. Justice A. N. Mulla (Mulla Committee Report,1983),

[16] C. Harding, *The Inevitable End of a Discredited System? The Origins of the Gladstone Committee Report on Prisons, 1895*, 31 HIST. J. 591 (1988), http://www.jstor.org/stable/2639758.
[17] *Towards Unity: Criminal Justice and Corrections* (Queen's Printer, Ottawa).

The Report of the National Expert Committee on woman prisoners under chairmanship of Justice Krishna Iyer of 1987, and the Model Prison Manual, 2016. The Mulla Committee[18] categorically talked about a two-pronged approach to tackle the problem of crime and treatment and rehabilitation of offenders—to counter socioeconomic conditions that contribute to crime and to extend all possible help to released prisoners to resettle in society. Moreover, the committee recommended the creation of community-based treatment programs and the involvement of the community with institutional, aftercare, and rehabilitation of offenders. Similarly, the Justice Krishna Iyer Committee Report as well as the Model Prison Manual, 2016, also advocated for the involvement of community and civil society organizations to cater to the rehabilitation needs of prisoners.

Replicable Community-based model of Probation in Assam

Community based probation may be relevant in Assam because majority of the population live in rural areas, there is a strong community feeling among rural people, people have a natural affinity towards their own communities, and chances of reintegration may be greater with community-led systems rather than institutional-based mechanisms. There are also various socio-cultural agencies at the community level to which people's allegiance and obedience are more than institutions created by law. There are indigenous inhabitants in the region, both in hills and plains, who are still adapted to conciliatory practices of dispute resolution rather than adversarial systems. Customary laws prevail in the sixth-schedule areas even today. It is generally observed that there is a kind of skepticism towards the established system of law enforcement, and people prefer to avoid them even for redress of their genuine concerns. Therefore, it is imperative to look for a model suitable to the context that can

[18] *Report of the All-India Committee on Jail Reforms (Mulla Committee)*, vol. 1, ch. 21 (1983).

supplement the efforts of the regular probation system. It is in this context that Japan's community-based model of probation needs a mention here. Japan, an Asian country, is well known for the involvement of citizen volunteers in the Probation System. Such a system got statutory recognition with the enactment of the Volunteer Probation Officer Act, 1950. The Probation System is managed by Professional Probation Officers and Voluntary Probation Officers. Probation officers are full-time government officials and VPOs are part-time government officials, but they are not paid any salary as such. However, they may, under the provisions of a Ministry of Justice ordinance and within the limits of the budget, be paid the whole or part of the expenses needed for the performance of their duties[19]. The voluntary probation officers as well as any other such private sector initiative in rehabilitation and correctional practices in Japan is a matter of statutory recognition under the Offenders Rehabilitation Act, 2007. Since the Assam Probation Rules, 1962, also has a provision for appointment of probation officer by the government and as well as a voluntary probation officer designated by the government, a Japan like arrangement is a possibility in the region. In India, two similar community-based models of Probation could be identified. First is the Prayas Model. Prayas is an initiative of the Mumbai based Tata Institute of Social Sciences started in the year 1990. Prayas has a consistent engagement with the Probation System in terms of helping the Probation Officers in the rehabilitation of probationers' cases. Social Workers with Prayas who are trained in correctional work not only help the Probation Officers in effective rehabilitation of persons released on probation but also in identifying potential cases for probation in prisons and courts. There is not always adequate no. of regular Probation Officers. Professional Social Workers of Prayas work in collaboration with Probation Officers in supervision cases to ensure that proper supervision is not denied due to less no. and multiple engagements of Probation Officers. Through their expertise in working with individuals and counselling, Prayas has been able to

[19] Volunteer Probation Officers Act, 1950, art. 9(2).

positively affect many people who are being processed through the Criminal Justice System in general and the Probation System in particular. Second is the Kerela Model in which Nervazhi Project being implemented in the State under the aegis of the Social Justice Department, Government of Kerela which aims at facilitating effective implementation of the probation system in the State. Towards that end in view, identification of eligible offenders, undertaking comprehensive investigation reports of offenders to ascertain their amenability for correction, psychological support for those in need and supportive supervision for re-integration are some of the initiatives being undertaken at present. It may not be out of place to mention here that the paralegal volunteers[20] , if oriented properly, may act as an alternative support system for offenders and provide effective probation services. Community-level rehabilitation of offenders will be successful with the involvement of such volunteers. The Community Liaison Model, prevalent in Pennsylvania (USA), is like a paralegal volunteer scheme in India. Under the Community Liaison Model, the Community Liaison Officer mandatorily develops and maintains effective working relationships with the local leaders of the community, law enforcement, victim services and other associated agencies such as neighborhood crime watch organizations. The officers try to develop and maintain such partnerships with different employers for the future engagement of the juveniles so that they can lead a civilized life in society. The officer also has an added responsibility to educate the community in its significant role frthe balanced and restorative juvenile justice system.

In Pennsylvania (USA) there is another prominent model of community-based probation called as the Community Supervision Model. Under this model, community-based probation officer carries a caseload consisting of juveniles under informal adjustment, consent decree and probation supervision. He/ she also emphasizes more on the restoration and reparation of crime

[20] Assam State Legal Services Authority, *Para-Legal Volunteers*.

victims and the community.The Community Supervision Model of Pennsylvania is yet another possibility in Assam with the involvement of customary forums. For example, *Kebang* and *Bane Kebang* is a beautiful exposition of self-governance in matters pertaining to criminal justice administration among tribal communities and is comparable to Panchayat in non-tribal localities. *Kebang,* the significant institution among the Mishing community, is a model under whose guarantee and supervision offenders can be released on probation in the absence of designated probation officers. Similarly, the village council "*ME"* which also plays an important role in the socio- religious life of people, is yet another model of handling non-serious or petty offenses like in cases of probation. This institution lost its past glory because of the modern system of justice delivery by the courts, as simple tribal people fear legal consequences for default. However, places of religion like temples, mosques, and churches should not have any role in probation- related services, as it can lead to communal problems, according to the respondents of the study.

CONCLUSION

Findings of the study indicate that community corrections can have a far greater impact on reintegration than custodial corrections. But for effective community correction, it is also important to appreciate the role of community agents such as probation officers, peer groups, and socio-cultural agencies. For culturally and contextually diversified community correction, states have also been sufficiently empowered by the Probation Act in India to frame their own rules for operationalizing probation. The said rules stipulate for a probation officer to play a key role in the process of community correction by identifying eligible cases, filling out social investigation reports, supervising, mentoring, monitoring, and reporting relapses. Unfortunately, in Assam, not only has the Act not been made applicable to all the districts, but

there are also no Probation Officers currently working under the Probation of Offenders Act. Even the no. of probation cases here are also very small. The total number of cases in 13 districts has been 633 in the last twenty years, i.e. on average, there are 49 cases in one district court, which comes to 3 cases a year in a district. This implies that the benefit of probation has not been properly extended. Specifically, to young offenders, though in some states in India there are borstal institutions for offenders of the age group of 18–21 years, all the states have not either enacted or have repealed laws in connection with the establishment of borstal institutions. For instance, offenders in the age group of 18–21 years in Assam would fall only under the purview of the Probation of Offenders Act since the Assam Borstal Institution Act has been repealed [21]in the state. But with the Social Welfare Department bifurcating into two new departments, namely, the Department of Women and Child Development and the Department of Social Justice and Empowerment in 2022, offenders who are above 18 years of age are not under the administrative control of the Department of Women and Child Development. In fact, as of date, except for juvenile offenders, the subject of probation is not under the administrative control of any government department. In total, the benchmarks for an effective and liberal system of probation, individualized probation plan, coordinated efforts of correction agencies, and community involvement are found to be not attained by the prevailing practices of probation in the region. Under the given circumstances, the present study examines how the objectives of the probation system can be achieved through community involvement, popularly called as community-based probation in places such as Japan, Pennsylvania and Virginia in USA, United Kingdom, Singapore, Thailand etc. It is an attempt to explore community conferencing, often used in restorative justice practices and referred to as 'reintegrative shaming', as an alternative to institutional-based probation. This is

[21] Assam Borstal Institution (Repealing) Act, 2022, Assam Act No. XV of 2022 (May 20, 2022).

also akin to the Family Model of Criminal Justice given by John Griffith[22], where society has a responsibility for the proper treatment of deviant people. In short, it looks beyond the conventional rehabilitative- driven probation to the reintegrative model of probation for effective community correction.

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[22] John Griffiths, *Ideology in Criminal Procedure or a Third "Model" of the Criminal Process*, 79 YALE L.J. 359 (1970).