CHAPTER I

CONCEPT AND HISTORICAL BACKGROUND

11 Concept

Probation as an alternative to imprisonment is a method of dealing with offenders. The term 'probation' comes from the Latin word 'probare' which means 'to test or prove'. Neither the Code of Criminal Procedure, 1898 nor the Criminal Procedure Code, 1973 nor the Probation of Offenders Act, 1958 defines what probation means in the Indian context. All these enactments use the words 'release on probation of good conduct' without defining the term as such in their respective sections which lay down the definition of the terms used in the said statutes. The absence of precise definition in the Act or the Code adds to the necessity of looking into some standard definitions of the concept for its proper comprehension.

Edward Fitzgerald gives the generally accepted definition of probation in U.S.A. as under:

A form of disposition under which a court suspends either the sentence or the execution of the judgement of sentence of selected offenders, releasing them conditionally on good behaviour, under prescribed terms and

* Hereinafter referred to as the Code.
** Hereinafter referred to as the Act.
rules and subject to the control, guidance and assistance of the court as exercised through officers appointed to supervise them.1

The American Bar Association Project on Standards for Criminal Justice defines probation as-

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. Such a sentence should not involve or require suspension of the imposition or execution of any other sentence.... A sentence to probation should be treated as a final judgment for the purpose of appeal and similar procedural purposes.2

The United Nations defines probation as-

A process of treatment prescribed by the court for persons convicted of offences against the law, during which the individual on probation lives in the community and regulates his own life under conditions imposed by the court (or other constituted authority) and is subject to supervision by a probation officer.3

2. AMERICAN BAR ASSOCIATION PROJECT ON STANDARD FOR CRIMINAL JUSTICE, STANDARD RELATING TO PROBATION (New York; Institute of Judicial Administration, 1970) at 9.
3. PROBATION AND RELATED MEASURES (United Nations, Department of Social Affairs, 1951) at 287.
The following statement of the Morrison Committee gives the well accepted view of probation in England:

We understand by probation the submission of an offender while at liberty to a specified period of supervision by a social case worker who is an officer of the court.

The Chief Justice of India S.M. Sikri (as he then was) approved the said definition in his Inaugural Address of the Probation year, 1971 on 8.5.1971 by remarking:

I like the definition of probation as given by the Morrison Committee.

Dr. (Mrs) Jyotana H. Shah, Director, Central Bureau of Correctional Services (as she then was) defines probation:

As a method of dealing with specially selected offenders and consists of the conditional suspension of punishment while the offender is placed under personal supervision and is given individualised treatment.

Chief Justice, Gopal Rao Ekbote (as he then was) of the Andhra Pradesh High Court defines probation:

Not only a suspension of punishment or sentence but is trying to put that man under the supervision of a probation officer.


7. Chief Justice Gopal Rao Ekbote, "Judicial Officer and Probation Officer in the Scheme of Probation", Supra note 5, at 42.
Chief Justice S.K. Verma (as he then was) of the Uttar Pradesh High Court explains probation as:

A method of non-institutional treatment of offenders. It implies the conditional suspension of imposition or execution of a sentence by court, specially of young offenders who are not sent to prisons but are released on probation i.e., on agreeing to abide by certain conditions and in some cases, to be placed under supervision.

At present the probation system in India works under the Act. The relevant part of section 4(1) of the Act runs as:

The court by which the person is found guilty is of the opinion.... that it is expedient to release him on probation of good conduct,... the court may instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond with or without sureties, to appear and receive sentence when called upon during such period...in the meantime to keep the peace and be of good behaviour,

A perusal of above definitions proves that probation is the suspension of the imposition of punishment on condition of good behaviour which the offender undertakes to observe under the supervision of a probation officer while staying in the society he has offended against. Some Indian authors along with their foreign counterparts make mention of the suspension

of the execution of sentence as an essential ingredient of probation. This is true of U.S.A., but not of India. In many states of U.S.A. the execution of the declared sentence is suspended subject to the grant of conditional probation. In the event of the failure to comply with the conditions of probation, the suspended sentence is executed. In India, the very imposition of the sentence is suspended. In case of violation of the conditions of probation order, the offender is punished for the original offence and amount of sentence of imprisonment is determined by the concerned court. Neither the Code nor the Act provides for the postponement of the execution of the predetermined amount of specified sentence.

Except the explanation of the concept by Chief Justice S.K. Verma all the other definitions make supervision as an integral part of the definition of probation. This implies that no person can be released on probation unless he is put under the supervision of a probation officer (or any other supervisory agency or official) i.e., there is no probation without supervision. This is correct about U.S.A. and U.K. but not of India. There was no provision for supervision under the old Code. The position is the same under the Code. The probation under the Act may be with or without supervision. The court while releasing an offender on probation under section 4(1)

of the Act may not invoke the provisions of section 4(3) of the Act which provides for placing the offender under the supervision of a probation officer. It is quite unambiguous that in India supervision order does not automatically follow release on probation as in the case of America and England. Rather probation without supervision is considered as a rule and with supervision as an exception which is necessitated by the public good and the interest of the offender. There is no compelling clause for passing the supervision order which depends entirely on the discretion of the Court.

The probation without supervision is undesirable as it goes against the very spirit of the concept which implies conditional suspension of punishment. The violation of the conditions of probation order means its revocation and consequent imposition of the suspended sentence. When there is none to check the infringement of the conditions by the probationer, this implies that virtually there is no condition. In India, neither there is strong public surveillance nor court supervision nor any other controlling authority which can detect and report the violation. (Moreover, the offenders are not so conscientious that they can be trusted to report the violation of their own and suffer penance.) Supervision order being a sine qua non of probation, the Indian concept is a distortion of the probation as understood in the modern penal systems of the world.
In the Indian context, probation may be defined as a conditional suspension of the imposition of punishment on selected offenders on their undertaking to maintain good behaviour for a specified period with or without the supervision of a probation officer.

Probation is a method of dealing with offenders and is a viable alternative to imprisonment. It is an embodiment of the progressive penal policy i.e., individualisation of punishment. The emphasis is on the offender rather than the offence. It is a community-based treatment which helps the rehabilitation of the offender as its productive member by allowing him to freely discharge his social and economic obligations. Thus, the law assists him to help himself to erase the stigma of crime by providing him a chance for adjustment in the society he has offended against. It saves him from the deleterious influence of prison life that comes in the way of his resocialisation in the society after his release from jail. The measure is also very economical as it involves a fractional amount in comparison with the maintenance of prisoners in jail. This in no way means that probation is a let-off or leniency. The original offence remains punishable during the period of probation. If the offender fails to observe the conditions of good behaviour, keeping the peace etc., he renders himself liable to be punished for the original offence. The
punishment is likely to be more severe because the offender knows he would get no commiseration from the court whose sympathetic and humanistic approach he has flouted with impunity. The fear of the imposition of undeclared suspended sentence with more rigour deters the probationer from relapsing to crime. The timely supervision, guidance, counselling and assistance control his deviation from the normal course of human conduct.

The underlying object of probation is to achieve the celebrated goal of criminal justice viz., protection of society and prevention of crime by the rehabilitation of the offender in the society as its useful member through the reformatory community based non-institutional treatment. It is designed only for those offenders who are reclaimable through the said treatment. As a safeguard, it reserves the option of sentence. Therefore, it is a combination of both punishment and treatment. It can be called as legal disposition of the case by the court where the offender is sentenced to serve time on test i.e., the conduct of the offender is on trial. At the same time, it is a process of individualised treatment which is community based. Such a method is ideal for the young and first offenders where criminality is not deep rooted and, therefore, is curable.

The young offenders being at the sensitive stage of their development need special care and treatment.\(^{10}\) It is also

\(^{10}\) Among the latest study that corroborates this is the U.K. Crime Survey published in the HINDUSTAN TIMES dated 8, 7, 1980, at 4.
highly desirable for first offenders who but for such solitary lapses are expected to be good citizens and not to go along a path of crime. It is also a suitable treatment for circumstantial emotional and occasional first repeaters where the offence is of a technical nature and the resulting injury is not serious which can be attributed to any deliberative motive."

Probation is not intended for professional and hardened offenders who are beyond redemption. Their persistent and precarious anti-social activities do call for their prolonged detention as the only assurance of the protection of society and prevention of crime. Release of such incorrigible offenders on probation defeats the basic object of the scheme of probation. This rather encourages them and their prospective comrades to imperil the society; jeopardise its safety; shake the confidence of the victim and public in the administration of criminal justice; and ultimately leads to the self sought remedy of personal vengeance. The kind probationary process is not available to even first and young offenders found guilty of serious offences i.e., offences punishable with life imprisonment. In such cases the injury to the individual and society and contemporary standard of penal thinking outweigh the imperatives of probation. Current status of probation and its role in modern criminal justice can be properly understood through a glimpse of its historical background.

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PUNJAB UNIVERSITY LAW REVIEW, Vol. 31 (1979), at 146.
1:2 Historical Background

General

It is a universally accepted fact that crime is a social phenomenon and crime problem is as old as society itself. Even since its evolution the institution of state had endeavoured to eradicate crime from society in order to guarantee protection of life and property to its subjects. To achieve this end relentless efforts have been made, all available resources deployed and all forms of punishment with their brutality and barbarity tried. Not to talk of total elimination of crime, its minimisation still remains an illusory goal yet to be accomplished

At a given time in the history, imprisonment began to be regarded as the main punishment. The other forms of punishment were considered as barbarous, unsuitable and medieval. The eighteenth century's classical approach of fitting punishment to the crime without taking into account the criminal was the chief exponent of imprisonment. Subsequently, the criminological studies and experience of different countries, especially of advanced penal systems, established that imprisonment was no longer a penal panacea for the rectification of all types of offenders. Different kinds of criminals require varied treatment. Mechanical imposition of imprisonment without looking into the personality
of the offender and his antecedents, family bringing up, early associations, his temptations, rehabilitative potential etc., proved that it created more problems than it solved. The young and first offenders were exploited by the professionals trained in the art of crime and purged of reformatory traits. Instead of readjusting in the society as law abiding members, they offended the society with reinforced vigour and adopted criminal careers. Neither the society was protected nor crime was prevented by their incarceration. Rather it proved to be counter productive. Thus, the ineffectiveness of imprisonment especially of short term and its deleterious effects on young and first offenders, the increasing emphasis on rehabilitation, the problem of rehabilitation of discharged prisoners, the incapacity of prisons to accommodate unending flow of inmates, mounting expenditure on maintenance of prisons etc., made the search for a non-institutional sentencing alternative to imprisonment as an extreme necessity. The need for shifting the focus on criminal was also realised. This gave room to the individualisation of punishment - the harbinger of probation.

The probation though an important and effective method of dealing with offenders has not arisen out of legislative enactments, judicial pronouncements and expositions. The Benefit of Clergy, Judicial Reprieve, the Recognisance,

12 Dr. M.K.S. Singh, Supra note 11, at 143.
Provisional release on Bail, Binding over and Provisional Filing of Cases are said to be the common law roots of probation. But the origin of probation as understood in the modern terminology has very succinctly been explained by P.B. Gajendragadkar, the Chairman of Law Commission of India (as he then was) as:

It was given to John August of Boston to initiate, though unknowingly, this concept when in 1941, he persuaded a Criminal Court to release a habitual drunkard from jail on his personal responsibility. John acted in this manner purely on humanitarian grounds. He was not a lawyer, or a judge or a Jurist, but was a mere cobbler. His humane instinct told him that it was worthwhile trying to help a criminal to rehabilitate himself. Acting on this human impulse, he took what turned out to be momentous and historic step. The person released on the undertaking of John was rehabilitated and lived a normal, innocent and honest life thereafter. John pursued this course, and during the next few years, he tried the experiment in regard to 2000 convicts. Efforts made by John in this direction constitute, in a sense, a foundation of the whole concept of probation, as we know it today.

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As regards to the selection of probationers, John confined his effort mainly to those indicated for their first offence and whose hearts though depraved yet gave promise of better things. Most of these never went the way of crime.

Massachusetts passed the first law in 1879 regulating probation by a statute. After this it spread to other states of the U.S.A. and United Kingdom. The discussion is concluded with the following remarks of Dr. M.K.S. Singh:

Probation developed as an alternative to imprisonment out of realization that short term sentences are not only ineffective but also harmful as these brought young offenders in contact with confirmed criminals in prison and thereby removed fear of prison.

Origin of Probation in Punjab

In Punjab as well as in the rest of British India, the release on probation of good conduct found its first statutory recognition in section 562 of the Code of Criminal

15. Supra note 13, at 90.
16. Dr. M.K.S. Singh, Supra note 11, at 147.
Procedure, 1898. It provided:

In any case in which a person is convicted of theft, theft in a building, dishonest misappropriation, cheating or any other offence under the Indian Penal Code punishable not more than two years' imprisonment before any court, and no previous conviction is proved against him, if it appears to the court before whom he is so convicted, that, regard being had to the youth, character and antecedents of the offender, to the trivial nature of the offence and to any

17. There seems to be a difference of opinion among the authors regarding the statutory origin of probation in India. For example, Dr. Jyotsna Shah in her book "Studies in Criminology Probation Services in India" (1973 ed.) at page 8 states:

In India the Code of Criminal Procedure, 1898 was modified in 1923 by the substitution of a new section 562. The new section provided for the release of offenders on probation. Dr. N. V. Pranjape in his book "Criminology and Penology (1980 ed.)" at page 203 has written:

System of probation received statutory recognition in India for the first time in 1908 when the Children's Act was passed.

On the other hand S. M. Sikri, Chief Justice of India (as he then was) in his paper "Probation - A Method of Rehabilitation of Offenders and Prevention of Crime" Judges and Probation, at p. 1; S. C. Consul in his book "The Probation of Offenders Act (1977 ed.)" at page 1; G. K. Misra, Chief Justice of Orissa High Court (as he then was) in his paper "Probation - A Saviour of Youthful Offenders" 'Judges and Probation' at page 44 and R. A. Kukla in his treaties on Probation of Offenders in India at page 4 have given 1898 as the year of statutory origin of probation in India.

The opinion of Dr. Shah and Pranjape seems to have been based on the passing of "Probation of Offenders Act, 1907" in England. They thought that origin of probation in India must be of some later date. Actually the common law courts were familiar with the voluntary adoption of probation before 1907 and the Act was statutory adoption of the practice of the courts.
extenuating circumstances under which the offence was committed, it is expedient that the offender be released on probation of good conduct, the court may, instead of sentencing him at once to any imprisonment, direct that he be released on his entering into a bond with or without sureties and during such period (not exceeding one year) as the court may direct, to appear and receive sentence when called upon and in the meantime to keep the peace and be of good behaviour:

Provided that when any first offender is convicted by a Magistrate of the third class or a Magistrate of the second class not specially empowered by the Local Government in this behalf, and the Magistrate is of the opinion that the powers conferred by this section should be exercised, he shall record his opinion to that effect and submit the proceedings to the Magistrate of the first class or Sub Divisional Magistrate, forwarding the accused to or taking bail for his appearance before such Magistrate, who shall dispose of the case in the manner provided by section 380.

A bare perusal of the language of the section leads to the conclusion that it had very limited application both in terms of offences to which probation could be granted and to the classes of persons who were to be considered as youthful offenders. It applied only to first but young offenders. Though it covered the case of an offender found
guilty of cheating, theft and aggravated form of theft in a building yet the circumscribing limits of trivial nature of the offence and extenuating circumstances of its commission indifferent attitude of courts and prevailing punitive criminal justice writ large in the Code, hampered the use of the kind provision to the said offences. The other offences under the purview of the section were those punishable with imprisonment not exceeding two years. The offences punishable with the same quantum of imprisonment under the local and special Acts were left out of the ambit of the section. A large number of offences under the Indian Penal Code and other laws were not considered fit for the reformatory approach of the provision. In spite of its limited scope, the section opened a new chapter in the history of Indian Penology. Subsequently, necessity of enlarging its scope was realised.

Widening of scope

The dawn of twentieth century witnessed the distilling of criminal justice out of the crude mixture of the nineteenth century in the developed penal systems of the world. This had its impact on India also. The Government of India appointed a Committee in 1916 to recommend the revision of the Code of

18. For example offences under Excise laws of various states. 19. For example offences regarding Opium and Railway.
Criminal Procedure, 1898\(^2^0\). The Committee realised the need for enlarging the narrow scope of Section 582 and recommended its amendment so as to take within its fold all offences punishable with imprisonment up to three years\(^2^1\). Subsequently, the Indian Jail Committee highlighted the deleterious effects of prison life and importance of the alternative measures for imprisonment. It recommended the introduction of modified provisions regarding the release of offender on probation of good conduct under Section 562\(^2^2\). Consequently, Section 562 of the Code was replaced by the new section by the Amendment Act of 1923\(^2^3\). It provided:

When any person, not under twenty one years of age is convicted of an offence punishable with imprisonment for not more than seven years, or when any person under twenty one years of age or any woman is convicted of an offence, not punishable with death or imprisonment for life and no previous conviction is proved against the offender, if it appears to the Court, before which he is convicted, regard being had to the age, character and antecedents of the offender,

\(^2^0\)The Committee was appointed vide Resolution No.1108, Judicial, of the Home Department dated 18.9.1916.
\(^2^1\)Reported in R.A.Kulkami's PROBATION OF OFFENDERS IN INDIA (Gangli, A.K.Kulkami,1971) at 4.
\(^2^2\)The Report of Indian Jail Committee(1919-20) at 35.
\(^2^3\)The major changes in the Code were effected by this Act known as Act No.18 of 1923. Section 157 of the Amendment Act replaced the old section 562 by the New one.
and to the circumstance in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond with or without sureties, to appear and receive sentence when called upon during such period (not exceeding three years) as the court may direct, and in the meantime to keep the peace and be of good behaviour:

Provided...

The new section widened the scope of law of probation to all offences whether under the I.P.C. or under any other law. It did away with the impediments of trivial nature of the offence, its extenuating circumstances and youth of the offender. It applied to a large number of offences, thereby, covering the cases of all those persons found guilty of offences punishable with imprisonment not exceeding seven years. In case of young offenders below 21 years of age and women criminals, the benefit of release on probation was further extended to all cases except those punishable with death or imprisonment for life. Accordingly, the necessity of rehabilitation and reformation of the young and women offenders through release on probation of good conduct was legally accepted. The period of probation was increased from one year to three years.

Provided to the new section was the same.
Endeavours for Separate Legislation

Even the enlarged scope of probation under the new section suffered from many drawbacks. The absence of the provision for supervision order was the main handicap. The power of the Court to grant probation, even to young offenders, was discretionary. There was no provision to call for the pre-sentence investigation report—an indispensable document for knowing the rehabilitative prospects of the offender. No other infra-structure was created for the realisation of the goals of probation. Thus, the law was far behind the comparative advances in the field of penology. The importance of probation as a sentencing alternative to imprisonment and increasing necessity of saving young and first offenders from injurious effects of the labour and its overcrowding coupled with heavy expenditure on prisons' maintenance led to a new thinking by the Government on the subject. The Government of India felt the necessity of a separate but comprehensive legislation on probation.

In 1931, an All India Probation Bill was prepared by the Government and its draft was circulated to the provincial

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25. As discussed earlier in this Chapter, the very definition of probation includes supervision of probationer by the probation officer. In his absence, there was no one to check the observance of the conditions of probation. Then how could it be known whether the released offender had rehabilitated in the society or used it as an opportunity for the commission of other crimes.
Governments for comments and opinion. However, due to preoccupation of the Government with the political situation in the country, the Bill could not take the shape of an Act. But the provincial Governments were permitted to have their own laws on the subject on the lines of the All India Draft Bill. Accordingly, the Central Provinces and Berar Probation of Offenders Act, 1936\(^{26}\), the Madras Probation of Offenders Act, 1937\(^{27}\), the Bombay Probation of Offenders Act, 1938\(^{28}\), and the United Provinces First Offenders’ Probation Act, 1938\(^{29}\), found their way on the statute book\(^{30}\). In the remaining states, section 562 continued to be the sole basis of the probation of first offenders.

Neither the state of Punjab enacted its own law nor it adopted the law of any other state. Many other states also were without the Probation of Offenders Act. Even in the states where there were probation laws, they were not uniform and sufficient. They failed to provide for the requisite infrastructure essential for the proper working of the probation. The increasing emphasis on rehabilitation and reformation of the offender as a productive member of the society added to the imperatives of an All India Legislation.

\(^{26}\) Act 1 of 1936.  
\(^{27}\) Act 3 of 1937.  
\(^{28}\) Act 19 of 1938.  
\(^{29}\) Act 6 of 1938.  
\(^{30}\) The Hyderabad Probation of Offenders Act, 1953 and the West Bengal (Release on Admonition and Probation) Act, 1954 are post-Independence additions.
on the subject. In the post-Independence period especially after the coming into force of the constitution, a lot of interest was evinced in the rationalisation of criminal justice—a colonial heritage. In this context the Government of India sought the help of United Nations under its Technical Assistance Programme. Under the programme, Dr W.C. Reckless, an eminent criminologist, came to India in 1952. He surveyed the entire field of correctional administration in India and also interviewed prisoners in the Indian jails. On the basis of his interviews, he found that many of them undergoing imprisonment should not have been sentenced to imprisonment but treated otherwise outside the prisons. He further classified offenders capable of being released on probation of good conduct. As to the scope of probation in India, he observed:

There is good evidence to show that probation supervision, as an alternative to jail sentence, is the best, most satisfactory and the most economical way of handling juvenile and adult offenders*

31. The statement of Objects and Reasons of the Probation of Offenders Bill, 1957 (now Act 20 of 1958) briefly outlines the history of probation in India since 1931. The need for the Central Act has also been summarised. Source: GAZETTE OF INDIA, EXTRAORDINARY, Part II, Section 2, No. 37 dated 11.11.1957.
In order to give practical shape to the potential of probation in India, Dr. Reckless suggested the holding of conference on probation. The conference was held in Bombay in 1952. The representatives of three states which by then had established probation services viz., Bombay, Madras and Utter Pradesh, participated in the conference. Many important aspects of correctional justice were discussed in the said conference, the foremost in the present context being the possibility of an All India Probation Act and its contents. A draft of the Act was prepared. Dr. Reckless suggested the establishment of a network of Probation Services in each state for effective realisation of the object of correctional justice as envisioned in the proposed law on probation. He can, therefore, be said to be the motivating and guiding force behind the Act. Inspite of the pressing necessity of the national legislation on probation and existence of ready draft, it took five years more to introduce the bill in the Parliament. Preliminary observations and recommendations of the All India Jail Manual Committee (1957-59) seem to have reminded the Government of the enactment of All India Probation Act. While reviewing the probation under the Code of Criminal Procedure, 1898 (which was then in force) and finding it deficient and defective, the Committee recommended that probation should be more extensively used than at
present in respect of delinquent children and adolescent offenders.

The Probation of Offenders Bill was introduced in the Lok Sabha on 11th November, 1957. It was discussed in the Lok Sabha on 18th November, 1957 and the motion for its reference to the Joint Committee was passed the same day. Rajya Sabha also approved the reference to the Joint Committee. The introduction of the Bill was lauded in the House. Shri Barman remarked that the principle of not punishing the first offenders was a salutory one.

Sh. D.C. Sharma welcomed the Bill as a step in the right direction. However, he called it a belated measure which should have been brought on the statute book much earlier. Shri Samantsinar commended the Bill as a bold step and typical of a legislation of a welfare state like India. Sh. Mohamed Imam pointed out that the Bill lacked the deterrent aspect of punishment. Sh. Imam wrongly understood the Bill as it was meant for only those selective but first and young offenders found guilty of less serious offences. Shri Datar, the then Minister of State in the Ministry of Home Affairs, removed the misapprehensions of Sh. Imam and others in his clarification on the Bill. Therefore, to say that the Bill was one sided and devoid of deterrent

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33. Para 113 of the Report.
34. Lok Sabha Debates Vol. VIII (1957) at 1076.
35. Id., at 1112.
36. Id., at 1108.
37. Id., at 1111.
38. Id., at 1102.
39. Id., at 1115-16.
The joint committee held seven sittings and discussed the Bill threadbare. It cleared the Bill after making minor modifications. Thereafter, the Bill was passed by the Parliament. It received the assent of the President on 16th May, 1958 as Probation of Offenders Act, 1958 (Act 20 of 1958).

The Act applies to the whole of India except the State of Jammu & Kashmir but the date of its enforcement was left to the respective state Governments. Model Probation of Offenders Rules were framed by the Central Government and circulated to the States for guidance and uniformity. The Report of the All India Jail Manual Committee further pointed out the necessity of having a network of Probation Services in India and recommended that to facilitate this, each state should organise a network of Probation Services.

The kind provisions of the Act were kept in abeyance in the state for over a period of four years. The Punjab

40. Sub-Section (3) of Section 1.
41. Sub-Section (3) of Section 1.
42. Para 135 of the Report.
Probation of Offenders’ Rules were framed in 1962. Subsequently, the Act was enforced partially in only seven districts of Punjab with effect from 1st of September, 1962. The Act was made applicable to all the districts of the state on 1.1.1967. The District Probation Officers were appointed i.e. Probation Services were established, though half way, in the state. This laid the foundation of the infra-structure of non-institutional administration of criminal justice in the state.

44. Ambala (excluding Rupar Tehsil), Gurgaon, Hoshiarpur, Kangra, Kapurthala, Mohindergarh and Siala (at that time all these districts were part of Punjab) vide Government Notification No. G.S.R.132/C/A20/56/51/62, dated 25.7.1962. Section 18 of the Act excludes the operation of Section 562 of the Code of Criminal Procedure, 1898 to the area of its jurisdiction. The corresponding section under the Code is Section 860.