

HOW TO EVALUATE PROBATION?

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ABSTRACT

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This paper was presented at a conference organized by **Conférence Permanente Européenne de la Probation (CEP)** together with the Ministry of Justice of Estonia which took place in Tallinn, on September 27th–29th this year. The title of this conference was ‘Unity and Diversity in Probation’. This was the reason and the angle of this article: to propose a matrix for the assessment of probation which is relevant to most of the EU countries.

The model starts with an assessment focusing on the mission statement. According to these criteria, EU countries could be divided into four main categories: **probation services based on promoting alternatives to incarceration model, probation services based on the model of assisting the courts in giving the best sentences, probation services based on the rehabilitation model, probation services based on the public protection model.** Evaluating probation services according to these criteria has its strengths and weaknesses. Some of these are presented in this paper.

Key words: probation, evaluation, effectiveness, outcomes.

1. INTRODUCTION

The question of how to evaluate probation concerned me very intensely while I was working for the Probation Department in Romania but I have not had the time to tackle this issue thoroughly. I had other priorities or other urgent matters to deal with.

When I decided to become an academic I thought I had overcome this question but it was simply not true. While I was teaching comparative probation students often asked me “so which is the best probation system?”. Therefore, I was

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again pushed towards this issue with no escape this time. Step by step I started to elaborate an answer to this question. First I remember I said “probably the best probation system is the one completing its mission” and I answered the question of how to evaluate probation by another question: what is probation? The reason for doing that is simple: one cannot evaluate something unless one knows what its purpose is. So my answer is built up on the assumption that an effective organisation is one which is fulfilling its mission. But things get even more complicated from this angle.

In terms of mission there is a huge diversity among different probation services. Some services have as their official purpose to provide *alternatives to imprisonment* and therefore to promote community measures and sanctions. Some other services have as a mission *to consolidate human rights and assist the courts in making the best decisions regarding sentencing*. Less and less services intend to *rehabilitate offenders* and more and more services set as a target *to protect the public*. These are the main messages included in the mission statements of all the European countries submitting a country chapter in the second edition of the book edited by Anton van Kalmthout – *Probation in Europe*.

The selection I have made is just a didactic one because most of the mission statements are polymorphous and complex, including two or even more of the messages presented above. Let us take for example the former mission statement of the Romanian Probation Service.

“The Romanian Probation Service serves the courts and the public by supervising offenders in the community in order to reduce crime and the cost and consequences of unnecessary imprisonment”.

As you can see, the essential tasks of the probation service in this country cover more than one aim. Therefore, the evaluation of this service would follow a pluralistic model with more than one set of criteria.

Another challenge one faces when trying to evaluate a probation service according to its mission statement is that sometimes this statement does not cover all the purposes of the particular service. Furthermore, when looking at the legislation regulating probation activity in some countries, we notice that the tasks of the probation service are completely different to the ones expressed in the mission statements. For some countries the mission statement is just a PR matter and does not have a functional role in organizational life. In that case I guess that the starting point for evaluation is the legislation and not the mission statement.

Now let us take one by one each of the main mission statements and see how probation services could be evaluated according to them. Before going into details I must say that my intention is to put forward some criteria for debate and also to underline some difficulties or challenges one faces when talking about probation evaluation.

2. PROBATION SERVICES BASED ON PROMOTING ALTERNATIVES TO INCARCERATION MODEL

In this case we evaluate whether probation, as a measure or sanction, is imposed or not with a high frequency. The assumption in this case is that probation as a measure or sanction is effective if it is imposed with a high frequency while at the same time imprisonment is imposed with a low frequency. Within the framework of the Council of Europe (Annual Penal Statistics) there are two indices for measuring the incidence of a measure or a sanction: a **global frequency index** measuring the ratio of the number of that measure or sanction ordered to the number of prison sentences and the second one a **specific frequency** measured like the first one but including only prison sentences of less than one year. Using these two indicators the ratio prison/probation sentences is more illustrative.

One of the difficulties we face in this case is what it is called the *net widening effect*. Let us take, for example, a case of a first time juvenile offender sentenced to probation for stealing a bike. Most of the time, in most of the countries, in this case, the judge would impose an admonition or maybe a fine but since probation became an option the judge, for several reasons, could go for it. Therefore, instead of becoming an alternative to imprisonment, probation could become an alternative to softer options. In conclusion, it is not enough to observe the number of probation measures or sanctions imposed but to look at the socio/demographic/judicial structure of the offender group upon which probation is imposed. At the same time, it could be useful to look at imprisonment figures to see whether the number or the structure of prisoners changed after probation became an option. From this perspective probation could be seen as not effective since the number of first time property offenders sent to prison increased dramatically in some countries. At the same time, in other countries, probation is already an option for high risk offenders and therefore the probation service is being used as an alternative to incarceration.

One criticism of this approach is that by measuring the incidence of the probation sentence or order we actually measure the effectiveness of the courts. Ultimately the courts are responsible for the good administration of sentences and not the probation service. In this respect Bondenson (1989) operates a useful distinction between assessing a sanction and assessing a program. The first one focuses, as we did above, on measuring the differences among sanctions and the second one measures the effects of a particular program.

3. PROBATION SERVICES BASED ON THE MODEL OF ASSISTING THE COURTS IN MAKING THE BEST SENTENCES

These services are the ones which cover the space between imprisonment and monetary sanctions. They constitute something like a middle way and therefore help the courts by providing more in between options for sentencing. Functionally

speaking, the bulk of the activity of these services is focused on the court: preparing bail reports, drafting pre or post sentence reports and so on. Obviously, the primary criteria in measuring probation effectiveness are those connected to the courts: confirmation rates (the proportion of the sentences taking the route suggested by probation service), prosecutors/judges satisfaction, the quality of the reports submitted to the court, the speed of submitting reports and so on. In this case the probation client is the court and, consequently, if the court is content with probation then the probation service is effective. The evaluation criteria presented above are to be taken in close interconnection. One single criterion could be misleading. For example, the confirmation rate. By using this measure, some services could be happy to observe that the confirmation rate is somewhere around 90%. But at a closer look one could notice that some probation officers prepare the conclusions of their reports according to what they anticipate to be the attitude of the judge relative to that case. It is what is called the *anticipatory effect*. Therefore, they suggest probation in the cases they anticipate to be likely to get probation knowing the judge's attitude regarding that type of case. In the end they get a very good confirmation rate but is this an effective service? Is that activity helpful for the court? Does this approach help the offender ?

4. PROBATION SERVICES BASED ON THE REHABILITATION MODEL

These services are the most traditional ones and at the same time those facing a lot of scrutiny and criticism. The activity of these services was evaluated by those who concluded that nothing works, by those who concluded that something works and lately by those who keep asking the question: what works?

The explicit aim of these services is to support offenders to lead a crime free life. In pursuing this aim these services deliver activities which target what we know about the causes of crime: relationship, job, accommodation, attitude, cognition, substance misuse, personal skills and so on. The basic assumption of this approach is that once we deal with these criminogenic needs we reduce the likelihood of re-offending.

There are a few issues here to be debated at the level of principle. Firstly, what we know about offending and in particular about what could prevent re-offending is very limited. What we have is just some glimpse of shine or some flashes. Almost every year criminologists discover new factors correlated to offending or re-offending. Let us take, for example, the new paradigm for intervention described as the desistance paradigm. Instead of focussing on past offending behaviour, Farrell suggests that probation officers should focus on desistance related factors like increasing legitimate future opportunities (improving family relationships, preparing for jobs and so on). Regarding desistance, Farrell and Maruna (apud McNeill, 2006) talk about primary desistance when a person stops offending for a while and secondary desistance when an ex-offender changes

his self image from a criminal to a law abiding citizen. The role of self and identity is even more stressed by Maruna (*ibidem*) who argues that, in order to support the offender to survive, the probation officer should support the client to reconstruct symbolically his self image as a non-criminal. As we can see, over time more and more issues regarding offending and re-offending have been identified. Therefore, probation services are not the masters of truth in terms of rehabilitation. They work with what we know it might work but they cannot be perfect.

Secondly, what seems to be most effective is the practical help the clients receive to sort out their problems: job, accommodation and so on. But job and accommodation are not resources available to probation services. They are provided either by the free market or by the central/local authorities. What the probation service could do is to prepare clients to get a job or accommodation and then connect them to the existing resources. But what happens when these resources simply are not there? Could the probation service be blamed if these clients could not survive? If yes, to what extent?

As it can be noticed, I used the term 'survive' instead of preventing re-offending and that is because personally I do not believe that re-offending rates can say too much about the probation effectiveness. As we discussed above, we know too little about re-offending and also probation services do not have all the resources that might help clients to keep the straight line of citizenship. What the probation service could do is to support the client's motivation for change. This could be done in many ways: by providing counselling, by organising practical help, by advocating for the offender's rights, by organizing individual and group work programs and so on.

All these activities are meant to support the client in building up new capacities and opportunities but they are not the only things that can prevent re-offending. Therefore, in my opinion it is not a legitimate criterion to measure the effectiveness of a probation service. Criticism regarding this evaluation indicator has been put forward by many researchers for other reasons too. Lloyd et al. (according to Israel and Chui, 2006) provided a list of problems associated with the use of reconviction rates for measuring effectiveness:

- it does not take into account all the aims of sentencing,
- there is no clear single definition of re-offending (reconviction does not measure re-offending),
- what is a proper follow-up period?

Tournier (2004, p. 24) adds to this list his own list of questions in dismissing re-offending as an effectiveness indicator: "what period of time will be taken into account with respect to «re-offending» and therefore in terms of failure? A further conviction? A conviction of certain degree of gravity? A particular type of offence?".

Even if one uses this indicator to measure probation effectiveness I would suggest that it should be combined with intermediate outcome indicators. These intermediary indicators could refer to the **probation activity**, such as: number of

clients included into one particular program, number of clients who terminate that program, client satisfaction, number of incidents during that program and so on. As it can be noticed, most of these indicators measure what the probation service **did** with the clients and less how these activities impacted upon the offender's behaviour. In order to assess the **impact upon the client's behaviour**, one can use another set of intermediary indicators which represent those steps taken by the offender in the direction of desirable goals, such as: longer intervals between the commission of new crimes, more minor forms of offences, pre and post tests measuring changes in attitudes or cognition, changes in the client's social circumstances, greater job stability or satisfaction and so on (Priestley *et al.*, 1984).

My guess is that these indicators say a lot more about probation activity than the reoffending rates.

Up to this moment we have discussed result indicators which are more or less quantitative. There also could be another set of indicators referring to **processes** which have more to do with the quality of the service.

As we all know, both quantity and quality could take us to performance. Usually, quality is measured against some standards. For instance, the quality of a pre-sentence report could be assessed against some methodological norms which provide instructions on this issue: what are the main sections of this report, what each section should consist of, how many sources of information should be contacted, how many interviews with the defendant, what are the time limits in which the report should be submitted to the court and so on. According to the extent to which that particular report takes into account the procedural standards provided by the regulations, one can assess the quality of that report.

5. PROBATION SERVICES BASED ON THE PUBLIC PROTECTION MODEL

More and more probation services, especially from the Old Europe, have as a mission statement to protect the public. In most cases the mission statement goes on by saying they protect the public by reducing crime, or by reducing recidivism, or by supervising offenders in the community and so on.

Traditionally speaking, probation services were created to deal with offenders and their needs. Nowadays they are meant to defend the public by controlling offenders. More and more probation services are now encouraged to breach any offender who does not comply with the supervision conditions or obligations and is therefore seen as a danger to the public. Sometimes a breach leads almost automatically to incarceration. Therefore there is no wonder that in some countries the number of prisoners has reached a historical high level. Where are the concepts of smooth supervision or wise supervision? What happened to practitioner's discretion in breaching a client? Why should a client with no other guilt but a hectic lifestyle be sent to prison?

This dramatic shift could be explained, in my opinion, only by the mass media's totalitarianism and political influence. With this new face of the probation service we live as in a postmodernist era in which it is not important what you do on a daily basis with convicts but what your image in the mass media is like. According to this model, what is important is not the number of probation officers but the number of PR managers and their strategies in dealing with the mass media. Increasingly, probation services have to organize image building training and design PR strategies in order to get a positive image in the mass media. I remember I attended once a training of this kind and what I learned was how to reply to criticism coming from mass media, how to deal with sad stories like reconviction during supervision and so on. I was simply stoned to notice that what was important was not the client but the image of the organization. It seems to me that in some cases the probation service started to exist for itself and not for its clients. Not even the identity of the client is clear nowadays: is it the offender? is it the court? is it the public? is it the mass media? is it politicians?

If we take this model it seems to be obvious that the probation service could be evaluated according to criteria such as: does the public feel safer? does the service have a good public image? is the number of crimes dropping? and so on. But how do we assess if the public feels safer? how do we deal with the fact that public perception has nothing to do with the level of crime?

These are just a few remarks related to probation evaluation. It is not the place and not the time to detail the subject. I have tried to cover several basic issues and to set the scene for further debate on such a hot subject as evaluation.

BIBLIOGRAPHY

1. BONDENSON, U.V. (1989). *Prisoners in Prison Societies*. Transaction Publishers. New Brunswick and New Jersey.
2. ISRAEL, M., CHUI, W. H. (2006). *If "Something Works" is the Answer, What is the Question?* In "European Journal of Criminology", vol. 3 (2): 181–200. Sage Publications.
3. McNEIL, F. (2006). *A Desistance Paradigm for Offender Management*. In *Criminology & Criminal Justice*. Vol. 6 (1): 39–62. Sage Publications.
4. PRIESTLEY, P., MCGUIRE, J., FLEGG, D., HEMSLEY, V., WELHAM, D., BARNITT, R. (1984). *Social Skills in Prison and the Community. Problem Solving for Offenders*. Routledge and Kegan Paul. London and Boston.
5. TOURNIER, P.V. (2004). *Aspects of Good Practice in the Criminal Justice System*. In *XXX. Crime Policy in Europe*. Council of Europe Publishing.

