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THE PROBATION SERVICE: A SYSTEM IN THE

ADMINISTRATION OF JUSTICE

(A dissertation paper in part
fulfilment of the requirements
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By

DAVID M. WAIHIGA

FACULTY OF LAW
UNIVERSITY OF NAIROBI
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PREFACE

The decision to write a thesis on The Probation Service in part fulfilment of my degree course was made at the end of my second year of the LL.B Course while attending the Fourth Term Clinical Programme in Nakuru. It was in Nakuru that I encountered Probation Officials and after a brief discussion, I decided to write a research paper ~~this research paper~~ on this topic.

A few other factors prompted this. I discovered that the Probation Service was little known by the public, hence need for a systematic study. So an interest was created in me. Coupled with this interest, was the readily availability of material and data. The Probation Officers in Nakuru expressed a great desire to provide me with all I needed. So there was not going to be much problem. However, this thesis is far from being exhaustive. The working of Probation in Kenya has still to be studied for there is still a lot of scope for examination.

Research, however, was concentrated to Nairobi because the headquarters of the department are in Nairobi. Also Nairobi is the city having the oldest Probation service in this Country.

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INTRODUCTION

The Probation System is an in'tegral part of our administration of justice. Under this system a person found guilty or convicted of a criminal offence is released by the Court (on Probation) to live in his own home or in open community rather than to be imprisoned. The objective is to reform the offender and to control his undesirable behaviour with the supervisory assistance and advice of a Probation Officer. The period of such supervision is fixed by law which is not less than six months and not more than three years. If the offender, now termed as a probationer responds well to the community treatment and re-establshes himself as a law-abiding and self-respecting member of the community - i.e. does not commit any other offence during the probation period, then he is no longer punished for the offence which he had originally committed. But if he fails to comply with the conditions of the Probation Order, he is brought back to court and is punished for the offence which he had committed before being released on Probation.

The probation System was started in Kenya over thirty-seven years ago. But little is known about it by the people of Kenya including the academic community. The task of my thesis, therefore, is to explain what the Probation system is and what it seeks to achieve. To accomplish this task, Chapter I will deal with the historical background of Probation and Chapter II will examine the value of probation. In section III the legal framework of the system in Kenya will be discussed and in Chapter IV, the working of probation in Kenya will be examined. Chapter V will deal with the shortcomings of the Probation system in Kenya. The thesis will be concluded with a note on suggestions.

It will be important to note that though Probation is a part of the system of justice, no attempt will be made to discuss administration of justice as a whole. Only such aspects of justice system have been accounted for which involve administration of probation laws.

CHAPTER I

HISTORICAL BACKGROUND

The probation system may be described as a system in the administration of justice. Under this system a person who has been found guilty of an offence, is given a chance by a court of law to change his criminal behaviour and become a law-abiding citizen. Such an offender is not sentenced to any punishment, but is allowed to remain in the community while the probation staff - the probation officers - diagnose and try to solve his problems and those of his family. The Probation System involves the suspension of punishment, the conditional release of an offender on good behaviour, recognizance on execution of bond, supervision by a Probation Officer and revocation of probation order. These five elements make up the present Probation system.

The origin of placing an offender on probation may be traced to traditional practices and to the practice of common law¹. Among traditional African Societies, the offender was treated within the community.² Forms of punishment varied from fines to summary death or excommunication. However, what was sought was not so much the punishment of the offender as the compensation of the victim and the restoration of the equilibrium of the society. The ultimate aim was to reabsorb the offender into the society.³ To achieve this equilibrium, suspension of punishment was a practice known to traditional societies. It was common, as a practice, to send an offender - especially a first or young offender - back to his kins, parents, guardians or superiors to be supervised and out of trouble in future. Such a practice is said to have existed in Baganda's Kabaka's court by the time Lord Lugard - the first explorer to the present Uganda - got there. Such a practice is also said to have existed in some South African tribes, such as the Zulus, long before the Europeans got there.⁴

Though there may be little direct evidence of the years among traditional societies, probation, in its essential sense the opportunity for a person to prove himself, probably has a larger and more venerable place in the chronicles of African customary law. The argument has been extended that the practice in most of the ^{world's legal system} sending an offender back to his kin or guardians or superiors, often with an injunction that he may be supervised and kept out of trouble and which can be traced to very early times, would not be unusual in Africa.⁵

Also, long familiarity with such by the fact that in modern customary courts in Africa this is a procedure still followed. The offender is referred to his family. The family is supposed to play a supervisory ~~note~~ role so that the offender can be reintergrated into the society.⁶

Under common law probation can be traced to suspending of sentences temporarily. This was a court practice whose origin is as old as common law itself.⁷ Such suspension were commonly of indefinite duration through failure of the court or other parties to take action. Under common law, the normal practice was that when a case was brought for hearing, a court file would be opened. This process took place after hearing. Judgment would not be pronounced immediately. Instead the file would be "kept alive", that is, judgement would be suspended until a later date. Meanwhile the conduct of the offender would be under constant surveillance. If the offender's behaviour was deemed good behaviour then his punishment in the form of a jail sentence would be suspended for good altogether. If the offender did not behave himself becomingly, he would be brought back to court and the court file containing his case would be "revived" whereby a court would have gone on to sentence the offender as if no suspension sentence had been awarded.

The conditional release of offenders on promise of good behaviour is an old practice in England. One Matthew Davenport Hill, a counsel at Warwick sessions in England reports that:-

"Magistrates were in ^{the} habit of sending boys and girls after conviction when they had reasons to believe that they were not hardened prisoners back to their masters or parents. So I adapted a similar practice with an additional: that the names of the guardian or parent who took the charge of the young person to be entered into a book and the guardian or parent signed it as an obligation that he would do his best. I also caused the police to make inquiry from time to time (at no certain intervals in order that their time might be unexpected by the boy and his master) as to his treatment and his conduct.⁹

From Matthew Davenport's Report it is clear that the elements of suspension of punishment, conditional release on promise of good behaviour, supervision of those granted suspended sentences, are not only characteristic of the probation system today but date to early practices in England.

A direct ancestor of probation under common law practice was the idea of recognizance. This was a situation where an offender would be required to execute a bond or to furnish a financial guarantee to maintain good behaviour and keep his peace. The offender on his promise, would be permitted to remain at large. In some instances, restrictions were placed on him. As this practice spread indefinitely on the theory that this was a traditional power of the courts under common law, this issue was raised in the House of Commons. A Bill was tabled as early as 1879 but it was turned down by the Lords. However, in 1907, the probation of offender's Act in Britain was passed which took into account earlier practices.¹⁰

But the idea of Probation as it is known has its origin in the United States. The earliest record case is that of a woman in Massachusetts in 1830, who pleaded guilty to stealing from a house. Her friends made an application to the court to allow her to go at large on her recognizance for appearance when called upon by the court. She was acquitted of another charge of larceny, but she was sentenced for the first larceny.¹¹

Ten years later, a spectator at a Boston Police court by the name of John Augustus - a shoemaker - ^{begged the Court} not to sentence an offender to jail for failure to pay his fine. The offender had been accused of being a drunkard. The court agreed to Augustus' request and fixed a date for the offender to re-appear. In the meantime, John Augustus helped him to find work and persuaded him to take the pledge. By the time the offender's probation period was over, he had been rehabilitated. John Augustus thus became the first probation officer in the world.¹²

But it was not till the year 1878 that Massachusetts Legislature authorised the Mayor of the city of Boston to appoint a Probation Officer annually as part of the police force of the city. Thus started the modern idea of Probation in United States spreading to all States in the U.S.

The predecessor of Probation of offenders Act of the United Kingdom was the Probation of first offenders Act 1887 which provided merely for the conditional release of certain offenders on recognisances to keep the peace, be of good behaviour and come up for judgment when called upon. But it was the 1907 Probation of offenders Act which provided a statutory basis for the probation system in that country. This is the same law that was transplanted into the colonies. However, the 1907 probation of offenders Act which brought probation as we know it today, involving both the suspension of a penal system and a period under supervision.

In Kenya, the Probation Service as a system was started in 1946 as a one-man station in Nairobi. Kenya was then a colony of Britain. Inevitably, our system of Probation and the law establishing it had to be borrowed from United Kingdom.

In 1946, a Committee¹³ (to be referred to as Bartley Committee hereinafter) was appointed to consider the advisability of introducing a system of Probation. This Committee¹⁴ recommended the institution of Probation System in Kenya without delay. The institution of Probation was to apply to the whole colony, but it was to be confined to the Municipality of Nairobi at its inception. The Bartley Committee also recommended that it should apply to all races, to child, juvenile and adult offenders whether first on recidivist. It also recommended the drafting of an ordinance.

The recommendations of the Bartley Committee were accepted by the then government and in 1943, the Probation of Offenders Act Chapter 64 Laws of Kenya was enacted. Thus started the Probation Service in Kenya. To date, the Probation Service in Kenya has spread all over the country with only the exception of North-Eastern Province where it has not been operating. It has had to overcome a lot of problems and hindrances to get this far. It has also been involved in many functions of a social nature that were not envisaged by the legislators while enacting the Act.

The Bartley Committee also recommended that the institution of Probation necessitated the drafting of an

ordinance and the revision of certain existing laws. The Honourable Attorney General was requested to draft the legislation necessary to give effect to such recommendations as the government may approve. It was made explicit that this was to take the mode of the laws in Britain. The Bartley Committee did also recommend that all new appointments to the Judicial Service were to be from Great Britain and were to be followed by a course in one of the London or Provincial Courts, and the Resident Magistrates already serving in Kenya should be required to attend one of these courses during that home leave¹⁵.

The legal basis of the 1907 Probation of Offenders Act of United Kingdom dates from 1879. In 1879, there was passed a Summary Jurisdiction Act which expressly permitted discharge of offenders convicted of a summary offence. This Act was passed to facilitate the work of missionaries who were assisting the Courts in making enquiries about the background of offenders¹⁶. The Probation of First Offenders Bill appeared seven years later. But it took twenty-one years before this Bill became law due to opposition. However, since the enacting of the 1907 Probation of Offenders Act, a lengthening series of official reports has commented upon, predicted and influenced the growth of the service.

The following chapter will be examining the philosophy behind probation as a form of punishing offenders.

CHAPTER TWO

THE VALUE OF PROBATION

Punishment of Offenders:

The punishing of wrong-doers is as old as wrong-doing in any society. Human beings have always considered some behaviour good and proper and some aspects of social behaviour hurting. Rules have therefore been codified and set out as laws and in some countries, men and even women have been specially trained and appointed to impose punishment¹⁷.

In their book, Criminal Justice and Treatment of Offenders, authors Maclean and Wood have said,

"It is obviously desirable that crime should be reduced, for the damage and distress caused by criminal behaviour are enormous. Attempts to bring about this desirable reduction can take many forms"¹⁸

Punishment of an offender takes many forms: capital punishment; corporal punishment; fines; imprisonment; creative restitution and being placed on probation. There are still other forms of punishment, namely, conditional discharge, being sentenced to approved schools, detention centres and being sentenced to Borstal Institution.

In most early societies, punishment tended to be retributive. Implicit in this the idea of deterrence; that pain experienced by the individual who was being punished was, in future, to deter him from repeating the behaviour¹⁹. This same idea has been expressed by Sir William Blackstone in the following words: punishment,

"as a precaution against future offences of the same kind. This is effected in three ways: either by the amendment of the offender himself; or, by deterring others by the dread of his example from offending in the like-way, or, lastly by depriving the party injuring of the power to do future mischief"20

Three notions of punishment are clear in Blackstone's²¹ observation; reform, deterrence and prevention. To this could be added the idea of retribution or denunciation which was adopted by Lord Denning in his evidence to the Royal Commission on Capital Punishment when he said:

"The ultimate justification of any punishment is not that it is deterrent but that it is emphatic denunciation by the community of the crime"22

Reform, deterrence, prevention and retribution or denunciation have been the aims of punishment. The belief in punishment for deterrence, for prevention and retribution has an old history. This was practised and believed in some of the earliest societies of the world such as the Greek, the Egyptians and Persians. This was also practised as early as the ninth and tenth centuries as aims of punishment in England which was later to be taken up in America and the Colonies²³ Justification for precaution as a form of punishment arose where an offence constituted a serious problem and where it was clear from the offender's record that he was likely to repeat the offence again.

Punishments have been imposed to deter. The deterrence has been aimed at anyone who may be tempted to commit an offence, including the sentenced offender who may be tempted to repeat his offence. Retribution as a form of

punishment is not very much in use today. Few people would base a justification of punishment on ideas of retribution. However, retribution in practice has been seen to have a part in sentencing.

The modern attitude and aim of punishment has been to reform or rehabilitate the offender from crimogenic tendencies. These two concepts - of reform and rehabilitation have developed in the face of opposition to the institution of imprisonment or a form of treating offenders²⁴. It has been argued that through imprisonment, the offender is incapacitated; that is, he is physically unable to commit new offences during the period of imprisonment. It has also been argued that this incapacitation through imprisonment serves the only rational purpose of protecting society from the offender by preventing him from committing more crimes while in prison²⁵. Those who look at imprisonment this way may hold that imprisonment serves the purpose of protecting society from committing more crimes. But the newly evolved insights in criminology indicate that only a small percentage of all offenders need imprisonment. The suggestion is not that the whole institution of imprisonment be obliterated. It is observed that society needs protection from some criminals who are too dangerous to be left alone²⁶. It is, therefore, imperative that such be removed from society least they commit more serious crimes. However, various studies show that actually only a very small percentage of all persons in the prisons need to remain in prison.

It is also observed that imprisonment as a form of

punishment is assumed to have a deterrent value²⁷. That is it works first on the individual offender, who because of having been put into prison will refrain from committing further crimes when he returns to society. Secondly, it is said to deter the general public because they fear to go to prison and therefore will refrain from committing crimes. It is true that a person serving a prison term is deterred from committing further crimes; but whether his incarceration experience deters him once he is out of prison, has not been proved empirically.

Prison Versus Probation

The institution of prison has been a reflection of the belief, and attitude of many that prisoners (or criminals) must be punished for their criminal acts, punishment being an intentional infliction of pain^{and} suffering either physically or mentally or both upon the offender by the state. This has been a wrong attitude. In spite of this, imprisonment is largely used as a method of inflicting pain and suffering on the individual²⁸.

Tibamayon Mushanga observes:

"The inmate is denied his liberty, his freedom, of choice in what he has to eat, wear, do and read. The inmate is also denied his or her sexual gratification till he is physically or psychologically forced to take to homosexuality and masturbation. There is every effort to obliterate his individuality and personality"²⁹.

Current criminology theories view crime and delinquency as symptoms of disorganization of the community as much as the individual personalities. Imprisonment is, therefore,

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being used less and less in most countries especially in developed countries as it is viewed to be harmful and costly. As a whole it is a contributing factor to the increase of crime. Much emphasis is therefore being placed on probation as a preventive, reformative and rehabilitative service. It has been pointed out that.

"in fact on both long and short term basis, the probation service legally protects individuals, the community and society as a whole from budding and hardened criminals alike while at the same time attempting to rehabilitate the offenders into law-abiding and peace loving citizens"30

The Philosophy of Probation:

Probation as a form of punishment is seen as an alternative - to imprisonment. Its essence has been started by BARTLEY COMMITTEE thus:

1. The essence of the system is that certain offenders, instead of being fined or sentenced to imprisonment or bound over, are placed on Probation; after a Probation order is made by the court and the offender undertakes to be bound by it; which order provides for the offender to be under supervision of a Probation Officer and stipulates certain conditions to be observed by the offender, e.g. as to residence. The order depends for its effect upon the voluntary co-operation of the offender. It is always open to the court to review the case, and if the offender fails to obide by his undertaking he can be brought before the court again and sentenced for his original offence.
2. ^{The} system is based on the belief that many offenders are not expert or dangerous criminals, but are weak characters who have surrendered to temptations or, through misfortune improvidence, have been brought within the operations of the Police and the Courts. In consigning this type of offender to the care of the Probation Officer the Court not only saves him from the possible contermination of Prison but also encourages him to use his own sense of responsibility for his future. Such a practice not only assists the offender and has a

social value to the community, but by relieving the Prisons of large numbers of first offenders, short term prisoners, and other classes of ~~quasi~~-criminal offenders, it results in great economy and allows the Prison Service to apply themselves to their true function - that of segregating or providing suitable treatment for the vicious and dangerous criminals.

3. The success of the system depends on two things: first, the tact and character of the Probation Officer, and, secondly, the manner in which the court makes use of its powers; the Probation Officer whose primary duty is to supervise, or in the words of the statute, "to advise, assist and befriend" the offender entrusted to his care under the terms of the order made by the Court, the Probation Officer can also perform other valuable services for the Court. Services such as the making of preliminary enquiries to enable the Court to decide whether a Probation Order is desirable and, if so, what terms are appropriate. These enquiries ensure that only those who are likely to profit by it are placed on Probation, and they allow the Probation Officer to establish contact with the offender at the earliest possible stage, so that his confidence may be secured.

Also by interviewing prisoners before trial, Probation Officers supply valuable information which will assist the Court in deciding how to dispose of convicted persons.

4. It has been said that the second factor for which the system depends on its success is the right use of it by the Courts - The Courts are concerned in two ways: first seeing that full use is made of Probation to keep offenders out of Prison, and, secondly, in seeing that only those offenders who are likely to profit by it are placed on Probation, and that the conditions attached to Probation Orders are of reasonable nature.
5. Probation will successfully deal with all classes of offenders, adults as well as juveniles, recidivists as well as first offenders so that contrary to a general belief, Probation work is not suitable only in the case of juveniles.
6. A system of Probation should be in the interests of the community in general and of the individual offenders themselves. Last but not least it should also make for economy; it should cost the Government less to pay one Probation Officer to supervise offenders living at their own expense than to keep those offenders at the public charge,

Prison or Approved School³¹.

This outline of the Bartley Committee sums up the objectives and philosophy in establishing Probation in Kenya.

The Probation method represents a distinct break with the classical theory on which the criminal law theory is based, for an attempt is made to deal with offenders as individuals rather than as classes or concepts, to select certain offenders who can be expected, with assistance, to change their attitudes and habits while residing in the free community and to use a great variety of non-punitive methods in rendering assistance to those offenders selected³².

The use of probation in the traditional sense is predicated on the assumption that an offender needs some form of help or care, perhaps even treatment, as well as control. In its helping aspect, probation affords the offender the opportunity of acquiring insight into, and if possible overcoming, the personal and social problems thought to be associated with his offence. In its controlling aspect the Probation Service is traditionally required by the Court to supervise the offender's social and personal adjustment in the community by restricting his personal habits, work, or residential conditions. In a sense, the control aspect of probation becomes ^{me} a substitute for imprisonment. Treatment, on the other hand, implies that the offender has personal maladjustment problems in contrast to being socially disadvantaged³³.

The institution of Probation has developed because

of the need to develop alternatives to custody and to ease overcrowding of prisons and to prevent commitment of many inadequate offenders to prison over and over again. Also due to the fact that many families are ruined because of the institution of Prison. Many people also take to delinquency and crime because of the stigma, absence of the parent and the general disorganization that accompanys imprisonment³⁴.

Probation is clearly different from the suspended sentence alone, since it includes a positive method of dealing with the offenders. It includes supervision, guidance and assistance of the offender by the Probation Officer into functions in dual role of helping the offender while at the same time controlling him socially, a role which is often difficult to reconcile satisfactorily. Both elements of help and control have as their objective the reassuring of society and the courts that offenders, who might otherwise be isolated from the community by custodial care, are not simply left in the community on their own³⁵.

Advantages of Probation

There are obvious advantages in placing a delinquent on probation; even one who has committed a criminal homicide:

1. Probation is cheap for the government to administer provided more Probation Officers are recruited than Prison Warders. The savings to the state in terms of money by employing probation system is cheaper than imprisonment since the latter certainly costs more to feed, clothe, shelter and guard an offender. It costs less to employ one Probation Officer to reform about fifty (50)

probationers in their respective homes.

2. Probation gives an offender a chance to re-examine himself. In this way, we could look at Probation as a system whereby courts could inculcate the spirit of self-esteem and positive image in the offender population. This is important because it is the exact opposite of what prisons do to men - ruin self-respect, make them brutal, homosexual, get more trained in more sophisticated criminal technique and develop anti-social values³⁶. Whereas by being rehabilitated in his own home, an offender is safe-guarded from contact with and contermination by more vicious and hardened criminals to whom he would otherwise be exposed to in prison.
3. Probation is the only correctional strategy that seems to hold the greatest promise, based on social science theory and research finding because it provides for the reintegration of the offender into the community. In cases of people who have never been in prison, it is argued that there exists a "fear of the unknown" which is a significant way may deter them from committing offences³⁷. However, once a person has been in a penal institution, this fear is dispensed with and thereafter he can indulge in criminal behaviour more easily.
4. Probation makes it possible for the offender to remain on his job, and to keep his family intact. Where the prisoner was the family breadwinner, his family may turn to crime or the state or voluntary organizations for material help. The prisoner, therefore, becomes indirectly a liability to the society, whereas if he were placed on probation, he would continue to meet his social and financial obligations including taxes, hence remaining a contributor to social and economic life of his family and society.

As it has been argued earlier in this chapter, it does not mean that the institution of Prison has to be wholly done away with - since there are certainly, some criminals who would need to be kept away for sometime or even for life time - but less emphasis be placed on imprisonment as a form of treating the offender.

The other factor for retaining it is that Probation is only preventive and as we have seen is economical to the

state and beneficial to the offender³⁸. The idea of prevention and/or rehabilitation demands more on the part of those who work under the Probation Service than can be seen on the face of it. As social workers, they have to be patient and tolerant. They are not to inflict punishment in the form of pain - physically or psychologically - but some of the people they deal with are not rehabilitatable. So the prisoner comes into supplement for this apparent shortcoming on the part of Probation System.

However, the value of Probation Service cannot be underestimated ⁱⁿ every possible ground. Probation justifies its existence many times over. There is no comparison between the comparative cost of sending a person to prison and placing him on Probation since all offenders are, by definition, thought to need treatment, and since offenders have different personalities, treatment must therefore be individualized - as such -, the Probation Service ought to be available to everyone who needs it.

CHAPTER THREE

LEGAL FRAMEWORK OF PROBATION

As it was pointed out in the previous Chapter I, the Kenya Probation of Offenders Act was passed in 1943, two years after the appointment of the Bartley Committee and one year after it submitted its recommendations. The Probation of Offenders Act, Chapter 64 of Laws of Kenya (to be referred to as the Act hereinafter) consists of eighteen sections. In addition to the main sections there is a subsidiary legislation clause which contains rules establishing two committees and rules for the functioning of the Probation Service.

Section (1) provides that the Act shall apply to such areas, and from such date, as the Minister orders. The Act applies to all parts of Kenya except certain parts of North-Eastern Province. But now the Department is starting to give services to the people of this area. There is a station at Garissa already³⁹. This exclusion of this Province amounts to denial of an important service to the people of this area. But as said, changes are taking place.

Section (2) deals with interpretation of various terms such as the "Act" "Court", "probations", etc. A few terms such as "African Court", "Supreme Court", "Ordinance" are out of use. These were terms used by the colonial government. The Act has never been revised since 1943 deplete terms are still in use. Further it may be noted there are certain roles of the Probation Service such as marriage

counselling and after-care which are alone outside the statutory requirements. The reason is that they have not been covered by the Act.

Section (3) provides for jurisdiction of the then African Courts which are today the Resident Magistrates' Courts. Under this section, the Ministers may by notice in the Gazette confer upon these courts power to make Probation Orders. From this section, then, Courts have power to make Probation Orders but as it will be seen on examination of section (4), these orders are made largely depending on the discretion of the sitting magistrate. This discretion extends also to referring an offender to the Probation Officers

Section (4) deals with power of Court to permit conditional release of offenders. It is a very important section and should be quoted whole:

Section 4 (1) where any person is charged with an offence which is triable by a subordinate court, and the court thinks that the charge is proved but is of the opinion that, having regard to youth, character, antecedents, home surroundings, health or mental condition of the offender, or to the nature of the offence, or to any extenuating circumstances in which the offence was committed, it is expedient to release the offender on Probation, the Court may -

- (a) Convict the offender and make a probation order; or
- (b) without proceeding to conviction, make a Probation Order,

and in either case may require the offenders to enter into recognizance, with or without sureties, in such sum as the court may deem fit.

Provided that, before making probation order, the court shall explain to the offender in ordinary language the effect of the order and that, if he fails in any way to comply therewith

or commits another offence, he will be liable to be sentenced or to be convicted and sentenced for the original offence, and the courts shall not make a probation order unless the offender expresses his willingness to comply with the provision of the order.

- (2) Where any person is convicted of an offence by the High Court and the Court is of the opinion that having regard to youth, character, antecedents, home surroundings, health or mental condition of the offender, or to the nature of the offence, or to any exonerating circumstances in which the offence was committed, it is expedient to release the offender on probation, the court may in lieu of sentencing him to any punishment, make a probation order, and may require the offender to enter into a recognizance, with or without sureties, in such sum as the court may deem fit.

Provided that, before making a probation order, the court shall explain to the offender in ordinary language the effect of the order and that, if he fails in any respect to comply therewith or commits another offence, he will be liable to be sentenced for the original offence, and the court shall not make a probation order unless the offender expresses his willingness to comply with the provisions of the order.

- (3) Where any offender against whom a probation order has been made commits a subsequent offence or fails to comply with any of the terms of such probation order, any sum the subject of recognizance entered into by or on behalf of the offender may, in the discretion of the court, be forfeited.

This section is important in that it provides a statutory basis on which a court can make a probation order or revoke it. The section covers the elements of suspension of punishment, the conditional release of the offender on good behaviour and recognizance on execution of bond. This is the section that, by its wording, allows the magistrate a wide discretion in referring offenders for investigation and in making of Probation Orders.

The section says that such a Probation Order can be

made when "the Court thinks that the charge is proved". Use of the word "think" here is ambiguous. It is not clear what the legislators actually intended by the use of this word. The impression got as a result of the exercise of this wide discretion is that there are no guiding legal rules for its proper exercise by the magistrates. Hence in our Law Courts, even with the expanding services of Probation, convicted offenders for minor offences are still sentenced to jail.

Contrast can be drawn by comparing this practice with the practice in other countries. A good example is the way Probation Orders are made in Nigeria where the act of a magistrate in referring an offender for investigation is a court process. This is a provision in the Nigerian Criminal Procedure Code⁴⁰. A magistrate there has no option or discretion to exercise. But even here not every single case is referred. However, compared to the Kenya system, the offender is fairly tried.

Section (5) provides that a Probation Order shall have effect for a period of not less than six months and of not more than three years from the date of the order. This section contemplates that by the period of not less than six months and not more than three years, an offender will have been rehabilitated.

Section (6) provides that such an order shall be without prejudice to the powers of the court, under any law for the time being in force, to order the offenders to pay costs, and such damages for injury or compensation for loss

Section (7) provides for those cases that would lead to a revocation of an order. Commission of further offences by a probationer could lead to arrest. The probationer may be required to appear in court and may be committed to custody or released on bail. If the probationer has been convicted of an offence while the probation order was in force, the court may convict him of the original offence if he had not been convicted and pass any sentence. If he had been convicted of the original offence, in respect of which the probation order was made, the court may pass any sentence which it could pass if the probationer had just been convicted before the court of that offence.

Section (8) provides for the re-appearance of a probationer in court on failure to comply with the Probation Order. A fine of two hundred shillings would be imposed on such an offender.

There are certain disqualifications or disabilities imposed upon convicted persons for criminal offences. Section (9) provides that a person convicted of an offence and is released under a probation order, shall have his conviction for that offence disregarded. So a person released on probation should not be treated as a person who has been sentenced to a jail term. This section serves the purpose of emphasising on the rehabilitative nature of placing a person on probation.

Section (10) deals with court procedures and transfer of documents. Under this section, a court which may have made the Probation Order is required to transmit documents

where a probationer may be committed to custody or is facing charge.

Section (11) provides for amendment of a probation order. Such an order can be varied when the court is satisfied that this is necessary.

Section (12) provides that a Probation Order can be discharged on the application of the Principal Probation Officer. Under section 13, the Principal Probation Officer and the probationer shall be furnished with copies of orders for the amendment.

Under section 14, it is the Principal Probation Officer who selects the probation officers. Section 15 provides for contributions towards institutions. Such contributions may be made towards the establishment or maintenance of institutions for the reception of persons placed under the supervision of probation officers.

Under section 16 the Minister is empowered to appoint a Principal Probation Officer who shall organize and supervise the probation service. These powers however, have been delegated to the permanent secretary of the Ministry⁴. Under section 17, the Minister may make rules prescribing:-

- (a) the duties of the principal probation officer;
- (b) the duties of probation officers.

These powers under this section have also been delegated to the permanent Secretary of the Ministry⁴². Under section 18, the principal probation officer may in writing delegate all or any of his powers, duties or functions

in relation to any probationer officer who is responsible for the supervision of the probationer.

This is the general statutory position. In addition to this is the subsidiary legislation. For the purpose of this thesis, only the probation offenders rules are relevant. These are the rules which appear under section 17 of the Act. These rules provide for the basis of the practice. Only rules 3 and 4 are important in this context.

Rule 3 provides that it shall be the duty of a probation officer -

- (a) to make such preliminary inquiries as the court may direct into the antecedents, home surroundings and other circumstances of an accused person;
- (b) to undertake the supervision of such probationers as may be assigned to his charge;
- (c) to visit the home of every such probationer and make inquiries as to his conduct, mode of life and employment;
- (d) to keep in close touch with the probationer and to arrange to meet him at least once a fortnight during the first six months of the period specified in the probation order and thereafter at such intervals as he may deem necessary, having regard to the conduct, mode of life and needs of the probationer;
- (e) if the probationer is a child attending school, to make periodical inquiries of the principal of the school concerned as to the probationer's attendance, conduct and progress;

- (f) to ensure that the probationer understands the terms and conditions of the probation order, and to endeavour by encouragement, persuasion and warning to secure his observance of the same;
- (g) to advice, assist and befriend the probationer and, where necessary endeavour to find him suitable employment;
- (h) if the probationer is under eighteen years of age, to endeavour to secure his association with some suitable youth movement or other welfare organization;
- (i) to keep proper and up-to-date records in respect of every probationer for whom he is responsible, including notes of visits and interviews and relevant details as to the conduct and progress of the probationer.

Rule 4 (1) provides that a probation officer shall report -

- (a) to the court, in accordance with any directions given by the court in a probation order or otherwise;
- (b) to the appropriate Care Committee, on the conduct, mode of life and general progress of every probationer placed under his supervision;
- (c) to the court, the principal probation officer and the appropriate Care Committee upon the failure of a probationer placed under his supervision to observe any of the conditions of the probation order relating to him;
- (d) to the appropriate Care Committee, upon any care under

his supervision in relation to which he receives a request for a report.

What is important to note at this juncture is the fact that the Probation of Offenders Act is a very old enactment which over the years has not been revised to remove those provisions which serve no purpose and to provide a statutory basis for other functions of Probation Department which the Act does not include.

CHAPTER V

WORKING OF THE PROBATION SYSTEM

IN KENYA

Role and Functions:

The Probation Service was introduced over thirty-seven years ago in Kenya. But as it was pointed out earlier,⁴³ the role the Probation Department plays and the services it provides to the community are still rather obscure. The greater part of the blame for this shortcoming, it may be argued, should go to the policy makers who have given less importance to the services rendered to the country by this Department⁴⁴. This delicate point which will be discussed in detail in the next chapter, has been a factor that has accounted for considerable frustration and dissatisfaction in the Department of Probation. However, the Probation Department has played a very important role in Kenya since it was initiated in 1943 and continues to play even a more important role.

The role of the Probation Department in Kenya, has been to provide a Probation Service which is an intergral part of the system of justice. Under this system a person who has been found guilty of an offence, is given a chance by a Court of Law to change his crimonogenic behaviour and become a law-abinding and self-reliant person, with the professional help of a Probation Officer. Such an offender is not

sentenced to any punishment, but is allowed to remain in the community while the Probation Officer diagnoses and tries to solve his problems and those of his family as well. This period of compulsory rehabilitation is fixed by law to be not less than six months and not more than three years⁴⁵. In practice, however, six months as the minimum period on which a person can be placed on probation -, has been found to be too short so that rarely are there cases of probationers who are said to have been successfully rehabilitated within that period. A probationer then, will be under probation for not less than a year, in practice⁴⁶.

The offences for which offenders are placed on probation are a whole presentation of the Penal Code,⁴⁷ with the exceptional of murder or conviction of the offence of treason and such technical offences as those connected with traffic. There is no law, directly as such, providing for the offences for which offenders are placed on probation. But this may not be necessary as long as the offence committed does not fall within those offences that require capital punishment indicated above. Also those connected with serious offences such as rape or stock theft which are punishable by a sentence of a minimum of seven years⁴⁸ or robbery with violence punishable by hanging - may not be placed on probation because of the graveness of the offence committed.

As to age, the Probation Service in Kenya caters for both juvenile and adult offenders. Section (4) of the Act⁴⁹ provides that "any persons" or "offenders" be they adult offenders or juveniles (my own words) can be placed on

probation once the necessary legal requirements have been met⁵⁰. This also proves wrong the notion that Probation Service is only for juveniles.

The field survey disclosed that at the Headquarters of Probation in Nairobi more adult offenders were placed on probation than juveniles. This can be explained by the figures below which show the number of court enquiries carried out on both adult offenders and juvenile offenders for 1979 and 1980; the number placed on probation; the number that completed its term of probation successfully without committing an offence which would have the order revoked or without contravening the rules in the Probation Order⁵¹. The figures also show those that completed unsuccessfully. These are those who contravened the rules in the Probation or those who committed an offence during the period of probation. Or those who disregard such an order deal with it in a manner which goes against the intention of a court⁵².

There are also those that absconded. They no longer went to report to the Probation Officer in charge of them or they changed place of residence and could not be traced. There are also those who were referred to the Probation Officers for inquiries but the report of the Probation Officer and his subsequent opinion - though not binding on the magistrate - went to indicate that probation was not suitable. So they were treated otherwise by either being imprisoned, fines, committed to Borstal Centres, Approved Schools, Hotels or were discharged⁵³.

<u>Date</u>	<u>Adults</u>		<u>Juveniles</u>	
	<u>1979</u>	<u>1980</u>	<u>1979</u>	<u>1980</u>
Court Inquiries	- 3541	4805	2890	3261
Those Placed on Probation	- 2330	3246	1261	1313
Successful Completions	- 1999	2001	945	1004
Unsuccessful Completions	- 145	175	120	162
Absconders	- 159	169	92	134
Otherwise Dealt With	- 1211	1314	1559	1802

All in all, in 1979, a total of 3591 offenders out of 64 court inquires were placed on probation. But the total number which was under probation supervision in 1979 was 9319 offenders. 5729 offenders had been brought forward from 1978. Likewise in 1980, total number of offenders placed on probation supervision was 4559 out of 8066 court inquiries. However, the total number of offenders under supervision in 1980 was 10,428. 5869 had been carried forward from 1979.

A few observations can be made from these figures:-

- (a) In 1979 and 1980, the number of adult offenders for court inquiries and the number placed on probation was bigger than that of juvenile. This suggests that crime propensity is greater for adults in Kenya. It also suggests that the Probation Service is even more needful for adults. It will also be noted that the number of adult offenders who successfully completed their probation terms or unsuccessfully completed or

absconded, is obviously bigger than that of juveniles. However, many court inquiries were made for juveniles and many juveniles were placed on probation.

- (b) The number of adult offenders dealt with otherwise was smaller than that of juveniles. Many juvenile offenders are either discharged or committed to Borstal Centres or approved schools⁵³. Some juveniles as a matter of fact are not brought to court⁵⁴ because they have committed any offences but because they were found in the big towns, such as Nairobi, loitering around as "parking boys", so called.

As to treatment of those who finish their term unsuccessfully or abscond, whereby in both cases, they will either have committed an offence during the term of probation or disregard the Probation Order as given to the Court, according to section (6), such a conduct would amount to contempt of court⁵⁶. Section (7) provides for revocation of a probation order made to such offenders. Section (8) provides for the re-appearance of such a probationer in court on failure to comply with such a probation order⁵⁹.

The functions of the Probation Department in both crime field and also in the field of general social casualty in Kenya can be categorised into five main areas⁶⁰ - namely:-

- (a) Social investigations for the Courts
- (b) Rehabilitation of Probationers
- (c) Marriage Counselling

(d) Participation in Committees

(e) After - care work

Social Investigations for the Courts

In Kenya as in many other countries which have not introduced a pre-Court - hearing report system and only a pre-sentencing report is required, the Courts refer offenders to Probation Officials with the exception of Juvenile Courts. Juvenile Courts have permanent Probation Officers sitting there. Their role is to check on every case that comes up, help the magistrate in assessment of ages of juveniles, and help the magistrate in reaching his decision and in sentencing⁶¹. This is what happened in Juvenile Court Nairobi. The sitting of Probation Officers in these juvenile courts is a break-through and often is suggested that this should be the case even for adult courts.

Nairobi area field of operation is divided into four major sections or courts: these are the Law Courts, Kibera Court, Makadara Court and Juvenile Court. For adult courts, the Senior Probation Officer divides his staff of fourteen Probation Officers and allocates a group to each court to perform the task of social investigation as the court directs. The Senior Probation Officer for Nairobi Area then does the co-ordination of these four courts.

Each Probation Officer within a group allocated to a court, performs the social investigation of those offenders referred to him by the court and supervises those that have been placed on probation and had their pre-sentencing report

presented to court by that particular Probation Officer. As a result some Probation Officers have a large number to supervise and others a small number depending on how many offenders out of a Probation Officer's total number of social investigations were placed on probation by the court.

Most of the offenders in Nairobi come from upcountry. The field survey disclosed that the Probation Officers, send letters to other Probations Officers in other stations in the country to get their information. The other alternative is meeting the offender in custody and ask him or her questions regarding the background or home⁶³. This is not a very successful method since the Probation Officer does not get much. In places outside Nairobi such as Nakuru, the Probation Officers travel to the home of the offender and inquire from friends, relatives, elders and chiefs as to the offender's conduct. Otherwise the general position is that to be able to prepare a report which is both informative and reliable, the Probation Officer has to interview many people, in most cases more than once⁶⁴. In order to do this he would have to get information from the following sources:-

- (i) the offender
- (ii) Careful study of Court file
- (iii) Close relatives and friends
- (iv) At least two independent and reliable local leaders in the neighbourhood of the offender who give the local community's opinion and attitude towards the offenders and family.

(v) For somebody employed, the employer is interviewed⁶

But this general position is not the strict practice through the Probation Officers try by every means to get information regarding an offender.

After collecting all the information, the Probation Officer analyses the facts and determines the possible causes of the offender's criminal tendencies, and compiles a pre-sentence report for the court. In Nairobi Area, respective Probation Officer in respective courts perform this task. As a part of the report, the Probation Officer is expected to suggest to the court whether the particular offender would be better rehabilitated if he were placed on probation. This recommendation is not supposed to be based on mercy and plea for leniency - but rather on reasoning based on factors surrounding a given case⁶⁶. If a Probation Officer realises that under the given circumstances it would not be practicable to rehabilitate the offender his home and community environment, he does not recommend probation.

As far as the operation of the system of Probation in Kenya, reporting and giving recommendation in court is the most that a Probation Officer can do. Unlike some other countries such as Britain and United States - to name a few - where Probation Officer present pre-court hearing reports, this is not the case in Kenya. It will also be noted that the recommendation of the Probation Officer is not binding on the Court. There is no law to this effect. Only section 4 of the Probation of Offenders Act which talks of "thinking". That is

if a magistrate thinks a case has been proved So that the position is that a magistrate in the Kenyan system of administration of justice has such unfettered discretion to refer an offender to Probation and to place the same on Probation. This is not the case in certain countries like Nigeria whereby the fact of referring an offender to Probation is a court process incorporated to Nigeria's Criminal Procedure Code⁶⁷. So the Nigerian courts have no option.

It is the feeling of many people that our courts should be asked to make more use of the Probation and that a revision of the law should be carried out to incorporate changes. At present, pre-sentence reports are prepared for all juvenile offenders but for adults, only for a selected few, mainly first offenders⁶⁸. The legal position, however, is that the Probation Officer is required ... "to make such preliminary inquiries as the court may direct"⁶⁹ with regard to any accused person. There is no legal basis, therefore, for this general position.

(Girl offenders and Hostels)

Rehabilitation of Probationers

The aim of rehabilitating probationers in Kenya is to re-build such a personality and help him develop characteristics that will enable him to stand on his own as a self-respecting and self-reliant citizen²⁹. To be able to do this, the Probation Officer tries to discover, through the process of case-work interview, the real problems that affect the life of the offender. The greatest task of a Probation Officer - is to try and ^{win}ruin the confidence of the offender by befriending-

ing him. In Nairobi as noted earlier, the probationer is required to see the Probation Officer fortnightly as the Probation Officer goes to visit him. About 75% of the prison population in Kenya is composed of prisoners who are in for less than 6 months duration⁷⁰. The Probation Department feels that it can take more offenders in this category for rehabilitation.

The Probation Officials do also undertake the rehabilitation of the family of the Probationer since it is in that environment that the probationer will live after completion of his probation period.

Data for Nairobi for 1978, 1979 and 1980

	<u>1978</u>	<u>1979</u>	<u>1980</u>
Court Inquiries	-- 1080	967	1387
Those placed	- 476	431	515
Satisfactory Completion	- 207	227	229
Unsatisfactory Completion	- 12	28	22
Those remained and brought over to the following year:	- 416	516	623

After - Care-work

Although after-care-work is not included in the Probation of Offenders Act, the responsibility has gradually filtered into the Probation Department through establishment of other Acts⁷¹ and direct instructions from the Ministry's Headquarters. At present, the Department of Probation only undertakes after-care mainly for ex-prisoners, namely Ex-borstal

inmates and special category criminals (i.e.) psychiatric cases. I gathered that due to lack of adequate personnel and other facilities, the department has been reluctant to accept the responsibility of undertaking after-care work for long-term prisoners⁷².

The work involved in the after care rehabilitation is very much the same as that of rehabilitation of a probationer which entails individualised approach and intensive work with the individual and members of the family. The involvement starts when the Probationer Officer is contacted before the prisoner leaves the prison. The Probationer Officer makes a social investigation of the prisoner's home and sends a report back to show how the prisoner is likely to be received back home. On being released, the ex-prisoner is placed under the supervision of a Probation Officer for a period of two years.

The after care work in most other countries is part of the Probation System legally. The Acts referred to earlier as authorising this undertaking do not do so directly. This is a very important "limb" of probation work and there is need to have it incorporated in the present law.

Otherwise, the after-care service is done on a small scale. This is also the care for Nairobi Area.

Data

After Care Work

	<u>1978</u>	<u>1979</u>	<u>1980</u>
From Borstal Centres -	22	24	28
Those remaining for the following year -	26	45	43

Marriage Counselling

This is also not included in the Act. It is done solely on two basis: one, people with marriage problems have been known to come seeking advice to marriage problems from Probation Officers; two, Probation Officers have undertaken this task by virtue of their being social workers⁷³. Marriage counselling is done on such an insignificant scale that it can be equalled with the other roles of Probation. This is the case especially for Nairobi Area. Note there is no law or executive authority, directing this undertaking.

Involvement in Committees:

This is not a statutory duty. But it is important in that Probation Officers as members of various committees dealing either with prisoners, children and young persons offenders or Borstal institution committees or Prisoners discharge boards, have opportunity to play some advisory roles in determining how criminals should be treated in view of rehabilitative ideas and changes in treatment of criminals. This, may be considered to be very important since to the Probation Officer, his task is a vocation and commitment is the prime requirement.

CHAPTER V

SHORTCOMINGS AND SUGGESTIONS

The institution of Probation in Kenya as elsewhere in the world, is a changing and a growing institution. This change and growth has arisen as a result of recognition of the useful work performed by the Probation Department. In United States and United Kingdom, the institution of Probation has grown by leaps and bounds to include a lot more things than were initially anticipated when Probation was started.⁷⁵

In England, for instance, the growth of Probation service has been coupled with changes in the tasks of the service. The Probation Service has been largely involved in after-care work whereby the Probation and After-care work is now represented inside prisons by prison welfare officers. Outside the prisons, probation officers are increasingly concerned with the need for contact with a prisoner during his sentence, and with helping the wives and families of men inside.⁷⁶

The Probation system in Kenya has also found itself in this move of change and growth. One of the factors that has contributed to this change and growth is recognition of the useful role of the service by the Government and the Public at large. Another factor has been the new findings that punishment by imprisonment does not do any good to an offender, though the position has still not changed much in Kenya. But in this process of change and growth, the system has had problems of its own. They are as follows:▼

GOVERNMENT POLICY

As it was pointed in the previous chapter, despite Probation being with us for over 37 years, the system is still unknown to the people of Kenya. This state of affairs, it was pointed out could be attributed to the policy - makers for giving less importance to the services rendered to the country by the service.

When Kenya gained her independence, one of the great tasks it set itself on was improvement and expansion of those institutions that existed during the colonial era but whose services and ^{sc} scope of operation was confined to a few areas, mostly the European areas.

The problem facing the institution of Probation emanates from the feeling that all is well with the Department. As concerns the treatment of offenders, the element of rehabilitation has not been emphasised much so that our Nation's overriding attitude towards criminals is still rather punitive. This sentimental inclination to punish, unfortunately has tended to overrational considerations on the cost and effectiveness of the rehabilitation of offenders. More than 75 per cent of the prison population, it was pointed out in the last chapter, today are serving sentences ranging from one month or few days to six months. This means that they are being incarcerated for very petty offences with the consequent disadvantages to their families and society.

It appears therefore to be an outright case that this Department has received unsatisfactory attention in terms of development.

NATURE OF WORK

The tasks of social investigation for the court and rehabilitation of offenders involves a lot more than can be seen on the face of it.⁷⁷ The Probation Officials are called upon by the nature of their work to sacrifice and utilize their time, energy, intellect and even at times finances. Sometimes the officials work from dawn to dusk under trying circumstances, covering large and long distances. This was common in pre-independent days when there were few or no vehicles and the Probation Officers had to foot long distances or ride bicycles.⁷⁸

Out of this also arises problems of the organization of the Department, the problem of staffing, staff training and development, the problem of transport, etc. These problems have been aggravated by the expansion of the Department .

PRESENT ORGANISATION

The Department is split into seven provinces i.e. Central, Rift Valley, Coast, Nyanza, Western, Eastern / North Eastern and Nairobi Province. Each province is headed by a senior probation officer and have under them Probation Officers in charge of districts. In every approved posed, there is supposed to be a principal Probation Officer. This post has remained vacant and the acting Principal Probation Officer is overworked

There are complaints that the staff is also small. Coupled with these problems is the problem of wages. The civil servants in the Probation Department feel they are paid very low wages in view of the work they are involved in.

The department also faces a problem in recruitment of staff. It recruits school leavers at Kenya Institute of Administration on Probation work and University graduates who are recruited by the Public Service Commission. Labour turnover has been high among University graduates, though the graduates quit soon after. An explanation to this is that recruitment has not been proper. It has not been a continuous process to ensure that there are qualified and adequate personnel all the time.

Also training for in service Probation Personnel in form of seminars, refresher course, etc, has been lacking. It has been suggested that inservice training programmes consisting of regular refresher courses and seminars should be organised as well as having a good and comprehensive pre-service training.⁸⁰ Such refresher courses would accomplish a lot in raising and maintaining the Probational Service. There is need to professionalise the Probation Service which can only be achieved through continuous training.

The nature of Probation work is field oriented and a great deal of travelling is involved. At present, the vehicles allocated to the Probation Department are not adequate, and secondly, the transport vote is also said to be insufficient.⁶

Sometimes the officials have to curtail their visits when they find that travelling vote is running out. There is, therefore, need to increase the transport vote.

The Probation Officer also finds it difficult in the field because of his mistakes identity. He or she is not at times given all the information. People think the Officials are CID or Special Branch so officials have to try harder. To get this information means travelling long distances. This is also the case for the supervisory role.

In the Law Courts, the Probation Officer is there as a Court Official, a court social worker. It has already been pointed out that here the role of the Probation Officer is restricted to that of reporting on offenders and recommending. The general feeling is that the Probation Officer should also be allowed a first hand in pointing out which offenders should be referred to the services of Probation.

There are magistrates who are convinced that pre-court hearing report would go along way in assisting them to reach a decision. Others are adamant on this. The argument against it has been that it will influence the magistrate. This has been a conservative view. Obviously, the role of the Probation Officer in court needs expansion.

CONCLUSION AND SUGGESTIONS

It has been observed that the institution of Probation is an old institution in Kenya. This institution, it has also been observed, serves a very useful part in the treatment of offenders and is much more in use in other countries in

contrast⁵ with other forms of punishment. However, it has been pointed out that the Probation System encounters a lot of shortcomings ranging from the provisions of the Act which needs revision to administrative issues.

The Probation Service is, therefore, old enough to remain the ~~way it may it~~ ^W has been. It is unperative that changes should take place for the better. As argued in this thesis, the service will definitely need expansion so that it can carter for more offenders. The role of Probation Officer and the Department as a whole will need more recognition and attention by policy-makers whereby administrative and financial problems will be minimised. Courts will need to be persuaded to make more use of the services of Probation. Included in the changes will be changes relating to training, and organisation.

There will be definite need to revise the Probation of Offenders Act. At the moment, the Act fails to serve its whole purpose. This has posed the whole problem plaquing the probation system in Kenya. Improvement of the Probation Service will be in accordance with justice.

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