

The Israel Approach to Probation Work

HARVEY L. NOVEMBER

Monticello, New York

By and large the judicial process in Israel is more direct and less bureaucratic, and it proceeds at a faster pace than in America. However, one can argue that Israeli courts are more lenient and less concerned with individual legal rights as elaborated in the American Bill of Rights.

Introduction

In recent years anthropologically oriented cross-cultural studies of social phenomena have provided us with new and often provocative perspectives on social problems. Understanding the place of crime and criminal justice systems in other countries is at once intellectually stimulating and may well lead to practical improvements at home. With this in mind, the following brief comparison of the Israeli Probation Service with its American counterpart is an attempt at raising important questions about accepted probation attitudes and procedures.

I

Israel, unlike America, is a small country with a national police force, unified court system, dual (adult-youth) probation service and monolithic prison authority. There are never any problems regarding jurisdiction or need for extradition. The police investigation is conducted where the crime was committed and the accused is indicted in a local court at the appropriate level. However, the probation investigation is conducted by the office nearest the defendant's home which may be located in a different region of the country. When the accused resides in the same locale where the crime was committed, the probation officer who conducts the investigation also personally appears in court to answer questions about his report and explain his recommendations. When the defendant lives in another city, a local officer stands in for the P.O. who did the pre-sentence investigation.

The Israel police can arrest and hold a suspect for 48 hours. To detain someone longer they have to apply for a court order.

Judges can and do grant renewable detention orders for 15 day periods. Most defendants however, are released on bail pledges. They or their relatives pledge to pay a fixed sum in the event that the accused fails to appear at the next hearing. Occasionally, a judge may demand a cash bail deposit. There are no bail bondsmen and the entire matter of bail often becomes a family affair. Except for extremely serious cases, an accused need not be, and is normally not, represented by counsel. Furthermore, there are no jury trials. However, very grave District Court cases and appeals to the Supreme Court against imprisonment sentences of five years or more are heard by a panel of three justices.

The court system in Israel follows the British model and was developed during the mandate period after World War I. There are three levels; Shalom (Municipal), District and Supreme Courts. Branches of each court are found in the main population centers.

In general, criminal cases pass through the courts at a much faster pace than in the U.S. Furthermore, Israeli informality pervades the entire system. Frequently, cases are heard and disposed of in the judge's chambers. The judge normally takes the court minutes himself. Hearing dates are set by the judge after consulting with the prosecuting and defense attorneys. Postponements are generally for objective reasons and pro forma or automatic delays are rare.

Israeli judges must be trained lawyers. They are appointed by the President upon the recommendation of a selection committee composed of Knesset (Parliament) members, Israel Bar Association representatives and ordinary citizens active in public affairs. Ap-

pointments are for life and salaries are relatively high. Judges, therefore, tend to be non-political who, because of the close-knit nature of Israeli society, generally have a good understanding of the defendants' socio-economic backgrounds. The socio-cultural gaps extant between judges and other "establishment" personnel and ethnic minority-defendants, which often limits effective mutual understanding in American courtrooms, are far less pronounced in Israel. By and large the judicial process in Israel is more direct and less bureaucratic and it proceeds at a faster pace than in America. However, one can argue that Israeli courts are more lenient and less concerned with individual legal rights as elaborated in the American Bill of Rights. Parenthetically it should be noted that neither Israel nor Britain has a written constitution.

Since there are no jury trials, plea bargaining is nonexistent. However, the combining of cases is quite common. Often a criminal court case against a particular individual is based upon several distinct but related incidents (i.e. a series of burglaries within a period of two or three weeks) and the same defendant may be responding to additional indictments in other courts. To expedite matters, all the cases may be combined and heard simultaneously in the court having jurisdiction over the most serious of the offenses. This is possible because the courts and prosecution are part of a single integrated system.

Once a defendant is found guilty the judge may request a probation investigation report. Customarily judges call for probation reports where the accused is under 21 years of age. About a month's time is allotted for the investigation. This procedure applies to adult offenders only, as youths (boys under 16 and girls under 18 years of age) are immediately referred to the Youth Probation Service by the police upon their apprehension. Criminal cases against minors are heard in a separate youth court. Except for very serious offenses committed by especially difficult individuals, minors are not detained nor sent to prison. Extremely troublesome under-aged adoles-

cents are normally sent to public or private institutions for delinquents if the home and neighborhood environments are deemed detrimental by the Youth Probation Service.

Before going on to discuss the work of probation officers it is necessary to outline the administrative organization of the Adult Probation Service which is a unit of the Ministry of Social Welfare and not part of the court system as in the United States. The Probation Service is one of several "Protection Services" which include street gang-workers, the professional personnel of institutions for delinquents, Youth Probation Officers, counsellors working with teenage girls in trouble and special follow-up officers who assist youth after they leave an institution.

The Probation Service has offices in the larger urban centers. The post of Probation Officer is considered a social work position and a professional social casework approach is employed. P.O.s, most of whom are women, conduct pre-sentence investigations, appear in court and practice social casework with convicted offenders once they are sentenced to probation. Generally the probation period is for one or two years.

II

For the most part, Israeli judges acquiesce to the P.O.s' recommendations with respect to probation. Rarely is a probation sentence ordered in opposition to the Probation Service's negative recommendation. It is not surprising, therefore, to find that Israeli probation officers place paramount importance on establishing good rapport with the probationer-client who, more often than not, is a young man of seventeen or eighteen who comes from a large oriental Jewish family living in a slum-like environment. The intensity and efficacy of contact between the P.O. and his client is mainly determined by the degree of mutual respect and faith that develops between them.

Reporting is obligatory but no disciplinary measures are taken against an individual who fails to keep in touch with his P.O. Sometimes

months pass without word from the probationer while in other cases he may visit the office several times in one week. To a great extent the nature of the relationship that develops between the P.O. and his client depends upon the way the client comprehends the probation officer's function. To many, the P.O. is a social worker, ready, willing and able to "help" him. "Help" frequently implies a welfare grant, timely recommendation or other very practical assistance.

The frequency of home visits is left to the P.O.'s discretion but generally reflects the degree of importance attached to the client's relationship with members of his family. Emphasis is placed on understanding the probationer's family situation and underlying psychological stresses caused by family conflicts and competition.

Particular attention is paid to the client's informal social group (*hevra*) which is usually the neighborhood gang. In this regard it should be noted that neighborhoods in Israel are less inclined to change than those in the United States. Similarly, local neighborhood cliques remain stable over relatively long periods. A large percentage of street-corner-youth in depressed slum-type areas become involved in thefts, breaking and entering, burglaries and car thefts. These are the most common crimes, often committed in a nonchalant manner with little or no thought given to the legal and moral ramifications of the offenses and losses suffered by the victims.

Probation officers frequently coordinate their efforts with street-youth-workers whose aim is to divert criminally inclined youth away from anti-social activities into more constructive activities. These problematic boys and girls normally drop out of school at ages 14 or 15 and work sporadically until age 18 when they are expected to join the army for three years of compulsory military service. It is during these intermediate years that adolescents tend to act out and get into trouble. Although army enlistment is generally viewed by social workers as an excellent solution of the problems of delinquents, the Israel

Defense Forces are not particularly interested in drafting young men whose criminal records attest to their instability and unreliability. Those youth who do pass the army's medical and psychiatric examinations are normally assigned to peripheral tasks. Quite often, troublesome boys fail to adjust to the demands of army life, go A.W.O.L., spend time in military prisons and are subsequently given early discharges.

Nevertheless, army service is a very important component in the lives of Israeli youth. Probation officers encourage and make every effort to stabilize undisciplined probationers before and after recruitment. Close contact is maintained with the military authorities whenever possible.

Probationers understand very well that the Probation Service is staffed by social workers not directly associated with the police or courts. They see the Probation Service as a source of help. A favorable probation report may very well help keep a client out of jail. Furthermore, P.O.s render valuable assistance in family, legal, employment and army matters. To a certain extent Israeli P.O.s do have the "pull" their clients ascribe to them and are interested in, because they are professionally and often personally acquainted with the people who staff other related social service agencies. Most social service institutions are government connected. Agreement is generally reached to the effect that only one caseworker need deal with the client so that wasteful and contradictory duplication is minimized.

A defendant cannot be sentenced to probation (which is not considered a punishment) and imprisonment or a fine simultaneously. Therefore, judges often sentence defendants to conditional imprisonment when probation is ordered. Conditional sentences in Israel differ from their American counterparts in that the latter is sentenced to a specified prison term which is suspended but can be activated upon the violation and subsequent voiding of the probation order. The Israel version of the conditional sentence provides

for the activation of the prison term when the defendant is again convicted of the same or similar crime during a fixed two or three year period.

Israeli P.O.s are client-oriented. They try to establish a foundation of mutual confidence between themselves and the probationers. It is generally felt that an authoritarian approach is incongruent with this objective. Israeli P.O.s normally accept their clients' stories and don't feel obliged to prove or disprove their statements. For his part, the probationer need not lie, conceal facts or purposely mislead his P.O. since he enjoys his professional confidence. The P.O. is not obligated nor is he interested in destroying his client's feelings of trust in him by reporting to the police or other authorities. On the contrary, probation officers often speak up on behalf of their clients and occasionally assume the role of the defense attorney in court hearings.

Conclusion

Israel and America are two modern but very different societies. Crime, the criminal justice

systems and remedial rehabilitative efforts also differ substantially in both theory and practice. It is difficult to ascribe a greater measure of success to one country's probation system as opposed to the other. In fact, valid criticism can be directed at both. In view of what has been pointed out in this article it is likely that improvements in probation work are dependent upon the development of greater flexibility with respect to P.O.-client rapport and the authoritarian approach; upon inter-agency cooperation, relating to the judiciary and discovering the underlying socio-psychological tensions that led the probationer into criminal activities in the first place. Continued sensitivity to our own culture-bound limitations and willingness to learn about other approaches to probation work can lead to greater efficacy and hence an increased likelihood of success. The P.O.-probationer scenario need not remain a closed hackneyed dialogue. It can be changed by open-minded probation departments willing to experiment with divergent ideas from abroad.