

CHANGING SHAPE AND SHIFTING BOUNDARIES - THE MEDIA PORTRAYAL OF PROBATION IN IRELAND

Niamh Maguire*
Nicola Carr*

Abstract

Literature on the media representation of probation highlights that probation as a 'brand' and concept is poorly understood and lacks public visibility. This has implications for its legitimacy and credibility. In this article we explore probation's visibility in one country, the Republic of Ireland, through a critical analysis of print media representations of probation over a 12-year period (2001 to 2012). While our study finds that the majority of the coverage of probation was either positive or neutral in tone, we note a recent shift towards a more negative tone that we argue is reflective of the changing shape of the penal-probation boundaries. These changes are linked to resourcing of the criminal justice system and have implications for the public perception of probation.

Keywords: Probation –Ireland - media representation -credibility

INTRODUCTION

This article explores the visibility and representation of probation and community sanctions within news media in the Republic of Ireland over a 12-year period. The analysis of print media coverage of probation provides a lens through which to explore changes in the orientation of probation over time and the shifting contours and contexts of probation's role that we argue speaks to both its contingency and persistence (Robinson et al, 2013). In this context we aim to address questions about the perceived role and public *legitimacy* of community based sanctions within one jurisdiction and in so doing make links to wider debates about the purposes and meaning of probation.

The media portrayal of probation has been the subject of a limited amount of empirical research to date and existing work has largely focused on the UK (more specifically on England and Wales) and the US (Allen & Hough, 2007; Burke, 2008; Maruna & King, 2004, 2008; Fitzgibbon, 2012). This literature makes a number of consistent points regarding probation's media portrayal and indeed its relative invisibility (Nellis & Hong Chui, 2003, Burke, 2008). For instance, it has been

*Niamh Maguire is Lecturer in Criminology, Probation and Criminal Justice Systems at Waterford Institute of Technology, Ireland, email: NMAGUIRE@wit.ie

*Nicola Carr is Lecture in Criminology at Queen's University, Belfast, email: n.carr@qub.ac.uk

argued that probation suffers from a ‘distinct public relations problem’ (Maruna & King, 2008:338) and that as a brand and concept it is poorly understood beyond the confines of the criminal justice system (and indeed sometimes within).

The question of probation’s public representation and standing within the criminal justice system is linked to wider questions of legitimacy (Dickey & Smith, 1998; Crawford & Hucklesby, 2013). The fact that the purposes and substance of probation is unclear to the public impacts on public perceptions of its appropriateness or legitimacy as a criminal justice response (Roberts & Stalen, 1997; Roberts & Hough, 2005; Allen, 2008). Here the marginal position of probation is contrasted with the primacy of the prison with its readily understood symbolism and more (literally) fixed boundaries (Mason, 2006). And we are invited to consider that part of the high use of imprisonment is linked not just to the re-emergence of popular punitiveness and demands for more expressive and emotive forms of punishment (Bottoms 1995; Pratt 2000a, 2002) but because the alternatives to imprisonment are so poorly understood (Allen, 2002).

Within this literature explorations of probation’s portrayal within the media have also been linked to the debates about the ‘survival’ of probation as distinct agency within the criminal justice system (Burke, 2008; Fitzgibbon, 2012). Yet despite the frequently sounded death knells heralding the end of probation, a recent contribution by Robinson et al (2013:308) points to the ‘improbable persistence’ of probation and indeed the somewhat paradoxical expansion in the scale and numbers under community supervision in the countries where it is perceived to be most threatened. Here these authors argue that the persistence of probation is in part due to its shape-shifting over time seen in the adaption and adoption of various rationales – managerial, punitive, rehabilitative and (potentially) reparative. These chameleon-like qualities, which are survivalist on one level are also closely bound to the environment or wider penal field, and are ultimately linked to questions of legitimacy – the perceived need to respond to wider cultural and socio-political imperatives of the kind variously described by Garland (1997, 2001), Pratt (2000, 20002) and others.¹

In this article we explore both the representation and the reshaping of probation in the Republic of Ireland through an analysis of print media coverage over a 12-year period. The timeframe (2000-2012) has been chosen because it is a period in which there have been a number of changes in probation practice including a re-branding of the service (in 2008 the word ‘welfare’ was removed from its official title) and an expansion of the organisation’s legislative remit and reach. The article begins by providing a brief outline of the Irish criminological context and probation’s role within this including recent key developments. The findings of the media analysis are then presented along with a discussion exploring some of the identified key trends. Given that much of the literature in this area has been predominantly focused on UK (England and Wales) and the US here we argue for the utility of explorations of other jurisdictions, particularly where probation has been less developed and where trajectories and pathways will invariably be different.

¹ An interesting question arises, however, in the possible distinction between the outward facing legitimacy (i.e. the public perception of probation) and the internal legitimacy of probation’s work with its clients, a subject explored by Robinson & McNeill (2013).

CRIMINAL JUSTICE, PENAL POLICY AND PROBATION IN IRELAND

On independence in 1922, Ireland inherited a common law system from England and Wales and later enacted a constitution, *Bunreacht na hEireann*, 1937. Traditionally, perhaps due to the existence of a constitution which protects a range of fundamental rights, the Irish criminal justice system placed more emphasis on due process rather than crime control values (Campbell 2006, 2007). However, this balance was altered significantly after the murders of a member of the Garda Síochána (Irish police), and a high-profile crime journalist Veronica Guerin in 1996 by armed organized criminals. In order to respond to the perceived attack on the security of the state, a series of new laws were enacted that eroded due process protections, introduced mandatory minimum sentences for drug trafficking and civil forfeiture procedures for the proceeds of criminal activity (see Campbell 2006, 2007). Almost a decade later similar presumptive sentences and restrictions on due process protections were introduced in response to the threat of organized crime after a spate of so-called ‘gangland killings’ some of which mistakenly targeted bystanders (Campbell, 2012).

Notwithstanding the reactive changes detailed above, Ireland has an individualized system of sentencing which means that in the vast majority of cases the courts have to take into account the circumstances of the offence and the personal circumstances of the offender when choosing the appropriate sentence (Maguire 2010). Irish judges may also legitimately rely on a number of different sentencing objectives including retribution, deterrence, rehabilitation and public protection (Law Reform Commission 2013). The Irish sentencing system has been described as one of the most unstructured sentencing systems in the common law world (O’Malley 2006). This is largely due to the failure to introduce reforms that would place a structure on judicial sentencing discretion (Maguire 2010; Law Reform Commission 2013). Although sex offender laws have been introduced alongside a number of mandatory and presumptive sentencing laws aimed at tackling drug trafficking and organized crime as described above, Ireland does not have a deliberate policy of punitive bifurcation or preventive sentencing for dangerous offenders (Law Reform Commission 2013).

The Probation Service in Ireland plays an important role in facilitating individualized sentencing. As the courts are required to consider the personal circumstances of the offender when imposing a sentence, probation reports are frequently used as a means of informing the court of such. The District and Circuit Courts make most use of probation and community service orders. The former stands at the bottom of the hierarchical court structure and it deals with the vast majority of summary (minor) and indictable (triable summarily) offences prosecuted in Ireland (Maguire 2010). Criminal trials in the District Court are brief in length and heard by one judge sitting alone. One step above the District Court, the Circuit Court deals with crimes of greater seriousness and criminal trials proceed by way of a judge and jury. The Circuit Court is much less inclined to use probation orders and community service orders than the District Court partly due to the more serious nature of offending it deals with (Maguire 2008).

PROBATION AND PENAL WELFARE

Although post-independence Ireland inherited legislation and institutions bearing characteristics of penal-welfare, according to Rogan (2011) the idea of ‘rehabilitation’ was absent from penal policy in Ireland in the early 1920s. It was not until the 1960s that advocates of penal reform and a rehabilitation ethos began to emerge in Ireland and two of the key instigators were the Department of Justice and

the Irish judiciary (Rogan 2011, 2012b). As Kilcommins et al (2004:188) write - the 'rationale of rehabilitation has neither been as enthusiastically embraced nor despondently abandoned in Ireland as in other jurisdictions'. As such, the 'nothing works' pessimism that followed the decline of the rehabilitative ideal did not have the same impact in Ireland as it had in other countries.

Neither, however, can Ireland be said to have embraced the 'new penology', variously described by Feeley & Simon (1992), Garland (2001), Pratt (2000a, 2002) and others. Kilcommins et al (2004) for example examined the extent to which Ireland exhibited the characteristics of a 'culture of control' described by Garland, (2001). They concluded that whilst certain of the indices mapped out by Garland (2001) were evident in Ireland, such as - increasing crime rates and prison populations, increasing anxiety about crime, greater politicisation of law and order issues etc.- routines, practices and tendencies more reflective of penal welfarism remained intact alongside newer developments.

However, this overall narrative – one in which Ireland never fully embraced penal-welfarism, (or abandoned it) and probation's position within this needs to be viewed within the context of the very marginal position of probation in the Republic of Ireland for much of the twentieth century. This is reflected in the neglect of probation within the criminal justice policy domain and the inadequate resourcing of the service for much of its existence (O'Dea, 2002; McNally, 2005; 2009; Healy, 2010). While the legislative basis for probation in Ireland (*Probation of Offenders Act, 1907*) is more than a century old, a significant functioning probation service was not put in place until the latter decades of the twentieth century.

Up until the 1940s there were only four probation officers and one Chief Probation Officer in the entire country and until 1968 there were no full-time probation officers employed outside of Dublin (McNally, 2005; 2009). In 1969, following a government-initiated review of probation the service began to expand and witnessed the emergence of a small professional cadre and from the mid-1970s onwards the service experienced a more rapid development, as evinced by increased staffing and a wider geographical reach. However, by 1973 there were still only 47 staff employed to service the whole country in what was then the *Welfare Service of the Department of Justice* (McNally, 2009). Following a further government review, in 1979 the *Welfare Service* became the *Probation and Welfare Service* (McNally, 2009). The introduction of a new community penalty, the Community Service Order under the *Criminal Justice (Community Service) Act, 1983*, was a key point (Healy & O'Donnell, 2005; Healy, 2010), affording the service a greater role in the management of orders that were set up as direct alternatives to custody.

Throughout the 1980s and 1990s various government policy documents and reports advocated increased resourcing and utilisation of the service, most notably the *Whitaker Report (1985)* recommended that prison should be used as a sentence of last resort and there should be expanded use of alternatives to custody – i.e. community-based penalties. The government's five-year plan for the *Management of Offender's* (1994) further recommended an expanded role for the Probation Service, again positioned as an alternative to custody in the context of unprecedented prison overcrowding.

It was not until the 2000s, however, that the legislative mandate for increased probation involvement was realised. This was affected with the passage of five key

pieces of legislation: *Children Act, 2001*; *Sex Offenders' Act, 2000*; *Criminal Justice Act, 2006*, *Fines Act, 2010* and *The Criminal Justice (Community Service) (Amendment) Act, 2011*. The *Children Act, 2001*, provided the legislative basis for new community-based sanctions for young people including day centre orders and mentoring orders and in response to this a dedicated Young Person's Probation unit was established. Probation's remit was further expanded by the *Sex Offenders Act 2001*, which introduced post-release supervision orders for sex offenders and by the *Criminal Justice Act, 2006*, that gave judges the power to impose supervision by a probation officer as a condition of part or fully suspended sentences². Efforts to increase the use of community service orders received legislative attention in the *Fines Act, 2010*, which for the first time allowed for community service orders to be imposed on fine defaulters and by the *Criminal Justice (Community Service) (Amendment) Act, 2011*, which introduced a new duty on judges to consider imposing a community service order as an alternative to a prison sentence of 12 months or less. Alongside the expansion of the service's role, particularly in the last decade, there has been a shift in the focus of the service. This has been marked by the introduction of a broad panoply of measures under the rubric of 'evidence-based practice', including the adoption of standardised risk assessment tools and a risk based model of practice (Fitzgibbon et al, 2010). This shift is encapsulated in the Service's 2007 *Annual Report*:

...our focus has shifted significantly over the years, from simply offering assistance to offenders, to reducing re-offending and enhancing public protection by changing criminal behaviour patterns. We have witnessed the introduction of intensive probation and cognitive behavioural therapy in the early nineties, and more recently the adoption of standard risk assessment instruments. (Probation Service, 2008:19)

Rationalisation according to risk has been brought into even sharper focus by the changed economic climate and retrenchment in public service funding. The Director of the Probation Service articulated the implications of this *realpolitik* by outlining that resources will follow risk (Geiran, 2012). Meaning that those assessed as presenting higher risk will be subject to more intensive supervision. This perspective also conveniently chimes with the 'evidence-based' Risk-Need Responsivity' model.

The recent introduction of 'one-day' pre-sentence reports and the promotion of community service as a sentencing option are further illustrations of service rationalisation and both are related to the drive to reduce the pressure on overcrowded prisons by increasing the use of community service orders.

The introduction of an early release programme, the 'Community Return Scheme', a joint initiative between the Irish Prison Service and the Probation Service, is also aimed at reducing pressures on the prison population. The scheme allows for the temporary release of prisoners serving between 1 and 8 years in return for work on community service projects. It was introduced on a pilot basis in October 2011 in response to a rise in prison numbers and attendant overcrowding and followed from a recommendation made by a departmental review group, the 'Thornton Hall Review Group'.³ The full roll-out of the project was announced by the Minister for Justice and

²Suspended sentences were introduced into Ireland by the judiciary but were eventually placed on a statutory basis by section 99 of the Criminal Justice Act, 2006.

³ Thornton Hall refers to the planned development of a 'super-prison' complex in rural North County Dublin. The site for the planned facility was bought by the State at an exorbitant rate at the height of

Equality and set out in the Irish Prison Service's three-year strategic plan in May 2012 with the target expansion of the programme to accommodate 400 prisoners per annum. The Probation Service's role in this programme is critical, assessing the suitability of eligible prisoners for release, including their potential risk and supervision and oversight of the community service placements.

While these developments have expanded the workload of probation, changed the nature of the typical client engaging in community service orders, and made the link between probation and prison more obvious, these shifts have not been reflected in greater resourcing of the Probation Service. In fact there has been a year on year decline in the annual budgetary allocation government in this period.⁴

Probation and Prison Populations

However, in the same period that probation's role has expanded Ireland's proportionate use of imprisonment also increased,⁵ and the available data illustrates that the prison retains primacy as a sentencing option. In 2002, Ireland's rate of imprisonment, at 82 per 100,000 of the population, was one of the five lowest rates in Western Europe (Walmsley 2003), but by 2011, the rate of imprisonment had increased to 100 per 100,000 of the population (Walmsley 2011). The frequency of prison use in Ireland is relatively high compared with other countries, even though the average time spent in prison is short. The most recent comparative statistics for Europe show that Ireland has a high rate of flow into prison in 2009, at 349 per 100,000 of the population, well above the average for Council of Europe countries which was 255 per 100,000 population (Aebi and Delgrande 2012).

The same survey gathered data on the average length of imprisonment in Council of Europe States in 2009 and shows that Ireland has an average stay of 3 months, considerably lower than the average for all countries which was 8.8 (Aebi and Delgrande 2012). The relatively short length of stay in Irish prisons explains the apparent contradiction in the statistics between a below average prison 'stock' and relatively high prison 'flow', as the majority of those sentenced to prison each year receive sentences of less than 6 months. Prison statistics in 2011 confirm this trend. In total 12,999 committals were made to prison under sentence, 8,070 committals were for sentences of less than three months and a further 1,786 were for sentences between three and six months (Irish Prison Service 2011).

A more detailed overview of the trends in the relative use of supervisory and custodial sanctions over the last decade (2001 to 2011) can be gleaned from statistics available in the Annual Reports of both the Irish Prison Service and the Probation Service. Table 1 illustrates that for the majority of years between 2001 and 2011 the number of

the economic boom (the so-called *Celtic Tiger*), but plans for development were put on hold following the economic crisis. Meanwhile the existing prison estate has been subject to strong criticisms of poor conditions exacerbated by a rising prison population and overcrowding. Alongside the proposals for earned release, the review group recommended building a 'scaled down' prison at the Thornton Hall site.

⁴ The Probation Service's annual budgetary allocation made from central government has actually witnessed a year on year decline from an annual allocation of €51.796 million in 2009 to €40.171 million in 2012 (Source: Probation Service Annual Reports 2009-2012, available at: <http://www.probation.ie/pws/websitepublishing.nsf/Content/Publications+-+General+Information~Annual+Reports,+Reviews+and+Statistics> (Accessed on: 04.09.13)

⁵ In terms of evaluating recent trends in the Irish criminal justice system, it should be noted that Ireland lacks a co-ordinated set of criminal justice databases and therefore statistical information on basic aspects of the criminal justice system remains scant (O'Donnell and O'Sullivan 2003; O'Donnell 2004; Kilcommins et al 2004; Rogan 2012a).

custodial sentences imposed by the courts surpassed the number of probation orders, community service orders and deferment of sentences combined. Much of the increase in committals to prison under sentence between 2008 and 2011 is accounted for by increases in committals for default of payment of a fine. For example, the number of committals to prison as a result of non-payment of a court ordered fine was 6,683 in 2010 and 7,514 in 2011 (Annual Report 2011: 28) The figures presented underscore the dominance of the role of imprisonment in Ireland, and when compared with neighbouring jurisdictions, such as Northern Ireland illustrate a lower proportionate use of probation (Carr et al, 2013 forthcoming).

Despite numerous policy reports calling for prison be used as a last resort and calling for the development of a greater range of non-custodial sanctions to reduce reliance on imprisonment⁶ the ‘prison has consolidated its position as the hub of the criminal justice system’ (O’Donnell and O’Sullivan 2003:57) leading commentators to conclude that there is a ‘strong orientation towards custody among Irish judges’ (O’Donnell 2005:119). This is reflected in the significant differences in the yearly budgets of the two services. In 2011, the annual budget for Irish Prison Service was €349.5 million whereas the Probation Service received just €41.2 million for the same year (Irish Prison Service 2011; The Probation Service 2012).

Table 1: Probation Order, Community Service, Supervision during deferment of Penalty and Total Committed to Prison under Sentence 2001-2011

Year	Probation Order	Community Service Order	Supervision During Deferment of Penalty ⁷	Total Supervision	Committed to Prison under sentence
2001	1,228	756	2,373	4,357	5,160
2002	1,265	916	2,334	4,515	5,036
2003	1,217	893	3,048	5,158	5,314
2004	1,878	843	5,623	8,344	5,064
2005	1,274	1,167	5,230	7,671	5,088
2006	1,779	1,158	5,714	8,651	5,802
2007	2,756	1,519	3,402	7,677	6,455
2008	2676	1413	2045	6134	8,043
2009	2865	1667	2021	6551	10,865
2010	2733	1972	1965	6670	12,487
2011	2033	2738	1882	6653	12,999

⁶ See for example: Rottman 1984; Committee of Inquiry into the Penal System 1985; The Law Reform Commission 1993, 1996; Department of Justice 1994, 1997; National Crime Forum 1998; Expert Group on the Probation and Welfare Service 1999; National Economic and Social Forum 2002; Sub-Committee on Crime and Punishment 2000; Comptroller and Auditor General 2004; Seymour 2006.

⁷ Also known as adjournment of sentence, a deferral of sentence is an example of judicial creativity, which is not untypical in common law systems, whereby a judge defers imposing a penalty (usually a term of imprisonment) until a later date and places the offender under the supervision of a probation officer. During the period of deferment the offender will have to comply with certain conditions and at the end of the period a progress report is presented to the court. This gives the offender an opportunity to prove themselves capable of complying with conditions and keeping the peace and gives the judge an opportunity to consider the appropriate sentence. This judicially created alternative to prison was placed on a statutory basis by section 100 of the Criminal Justice Act 2006. As mentioned previously, sentences of suspended imprisonment are also used, and while these may attract some form probation supervision, reliable statistics are not available.

(Source: Probation and Welfare Service Review 2000-2003; Probation and Welfare Service Annual Reports 2004-2006; Probation Service Annual Reports 2007-2011; Irish Prison Service Annual Reports 2001-2011).

It is unarguably the case that the Probation Service has gained an increased prominence and role within the Irish criminal justice system in recent years. Although there is some evidence to suggest that public support for alternatives to custody in Ireland has traditionally been strong (McDade 1999; IPRT 2007) the manner in which the Probation Service or indeed the concept of probation is publicly perceived has not been the subject of critical analysis. The portrayal of crime and criminal justice more generally within the Irish media, has been the subject of a small amount of empirical studies, which are described in the following section.

MEDIA REPRESENTATION OF CRIME AND CRIMINAL JUSTICE IN IRELAND

Despite the fact that Ireland has traditionally been a low-crime country with relatively little public concern about crime, as far back as the mid-1980s Kerrigan and Shaw (1985) observed a palpable change in the print media's coverage and portrayal of crime news in Ireland towards a more hyped-up and hysterical account. According to O'Donnell and O'Sullivan (2003) the media played an important role in fuelling public concern about crime in the aftermath of what can be considered a watershed moment in Ireland—the aforementioned murders of a police officer and a journalist by armed organized criminals in 1996. Around this time a number of studies were carried out exploring the nature of the portrayal of crime by the print media in Ireland. O'Connell's (1999) study of over 2000 Irish newspaper articles dealing with crime found four types of bias in the print media's presentation of crime. These included a bias towards the coverage of serious offences both in terms of frequency of coverage and the 'wordage' devoted to such stories, a bias towards stories involving vulnerable victims and invulnerable offenders and lastly, a pessimism in stories that related to crime and the criminal justice system in Ireland (O'Connell 1999). A previous study carried out by O'Connell and Whelan (1996) found correlations between public estimates of crime prevalence, punitive attitudes and readership of tabloid newspapers.

One further more recent study by Healy and O'Donnell (2010), which involved an analysis of local newspapers in the West of Ireland at two points in time, is worthy of mention. However, rather than focusing on media representation per se, here newspaper reporting was used as a means to explore the sentencing rationales employed by judges in District Court cases. Alongside the innovation of the method, what is notable is that this approach was used in the absence of other data on sentencing rationales, again reflecting a general opaqueness of the criminal justice process. This opaqueness extends to other areas of the criminal justice system in Ireland and is reflective of a relatively limited (but all the time developing) criminological research culture (O'Donnell, 2011).

Aside from the studies outlined, there has been limited research attention paid to the media representation of crime and criminal justice in Ireland and nothing to date on the media representation of probation in Ireland. In his introduction to Service's 2007 Annual Report, marking the centenary of the Probation Order in Ireland, the then Director, noted the relatively invisible role of the Probation Service, describing the

service as ‘...the criminal justice system’s best kept secret’ (Probation Service, 2008:12) and observing that:

...after one hundred years of busy and crucial activity, an agency that makes communities safer and helps offenders break their cycle of dangerous activity, deserves its own front-page feature articles. (Probation Service, 2008:3)

The following sections of this article, through an examination of print media, present a critical analysis of the media portrayal of probation in Ireland and in so doing we explore shifts in the shape of probation over this period. We begin first by outlining our methodology.

STUDY METHODOLOGY

Sample

Using the Lexis Nexis database we searched nine print newspapers over an 11 year-period (1st January, 2001-31st December, 2012) using the following terms: Probation (or) Community Service (or) Probation and Welfare Service (or) Community Punishment. The terms were chosen to reflect the most common community sentences used by the courts in the Republic of Ireland (probation and community service) and to encapsulate the name change of the service, becoming the *Probation Service* in 2008. The re-branding of Probation by ‘dropping’ the ‘Welfare’ element was articulated as part of the service’s ‘coming of age as a criminal justice agency’ (Probation Service, 2008). We included the search term ‘community punishment’ to see whether there was any discernable shift in terminology – i.e. from welfare to punishment – used by print media in the period following the re-branding of the service.

Data on average newspaper circulation is available from the *Audit Bureau of Circulation’s (ABC) annual Island of Ireland Report* and the *National Newspapers of Ireland* database.⁸ The daily publications chosen for analysis for this study comprise the top three daily titles (*Irish Independent*, *Irish Times* and *Irish Examiner*) and two UK based tabloid publications (*Irish Daily Mirror* and *Irish Daily Mail*). A number of UK based newspapers print Irish editions and these have witnessed a growth in market share in recent years. More recent entries to the market, the Irish editions of the *Daily Mail* and the *Irish Daily Mirror* were launched in mid-2000. Data from these publications are therefore only available for a shorter time span, but are included in the overall dataset. In addition to the daily print editions, four Sunday titles are also included in the overall dataset. The full list of titles included in the sample are set out in Table 2 below.

⁸ National Newspapers of Ireland: <http://www.nni.ie/v2/broad/circulation.php> (Accessed on: 05.03.13)

Table 2: Newspapers included in analysis

Newspaper Title	Type	Timeframe of Analysis
Irish Independent	Daily	2001-2012
Irish Times	Daily	2001-2012
Irish Examiner	Daily	2001-2012
Irish Daily Mail	Daily	2006-2012
Irish Daily Mirror	Daily	2006-2012
Sunday Independent	Sunday	2001-2012
Irish Mail on Sunday	Sunday	2006-2012
The Sunday Times	Sunday	2001-2012
Irish Sunday Mirror	Sunday	2001-2012

Using the specified search terms featured anywhere in the article resulted in over 3,000 articles being returned in the search. As the Nexis database orders the data by relevance, i.e. the number of times the term or terms are mentioned in the article and the positioning of the terms (e.g. in the title or body of the article), the first 500 articles in the 10 year period (January 2001 to December 2011) as they appeared in the search return were analysed. A separate search for all articles containing the specified search terms was conducted for 2012 (January to December) and 166 articles were returned, these were also analysed as part of this overall sample (n=666). A total of 125 articles were excluded because they were duplicates of other articles or because the article in question did not appear in a newspaper edition in the Republic of Ireland. This related to articles in UK-based publications, where the search yielded some articles that appeared only in the Ulster editions of these newspapers. The final sample therefore included (n=542) articles encompassing the period 2001-2012.

Data Analysis

For the purpose of initial coding all articles were assigned an individual code and the following data was recorded:

- Date of publication
- Newspaper Title
- Article Title
- Article position (pg. no)
- Wordcount
- Whether the article referred to an individual offence or offender?
- Whether the article referred to a broader policy issue?
- What was the overall theme?

The first elements of coding therefore involved a rudimentary content analysis whereas items requiring an assessment of the general theme and overall tone of the article in terms of the portrayal of probation were more qualitative in nature. Scott (1990:31) notes analysis of documents: ‘...involves mediation between the frame of reference of the researcher and those who produced the text.’ Exploring the meaning of texts necessitates a move beyond counting methods more traditionally associated with quantitative content analysis towards an approach that allows for the exploration of the discursive practices reflected in texts. The more rudimentary content analysis was therefore supplemented by a qualitative approach, which allowed for an exploration of *meaning* and *emphasis* in stories about probation.

Our first question was – how was probation (in the broadest sense – i.e. the work of probation, the Probation Service) portrayed in print media in the given period? In

order to explore this primary question, we sought to situate this within the overall extent of coverage – how often and in what context was probation mentioned in the sample and were there any general trends evident over time? In order to explore the meaning and emphasis in news stories in which probation featured using the typology set out by Altheide and Schneider (2013) we explored the broad ‘framing’ of the topic, the overall themes and the discourse employed in news coverage. The themes, sometimes considered as ‘mini-frames’ refers to the ‘recurring typical theses’ that run through reports (Altheide and Schneider, 2013:53).

FINDINGS AND DISCUSSION

Of the 542 articles analysed, 129 articles were rated as positive in tone, 60 articles were rated as negative, but by far the greatest proportion of articles was neutral (n=353) in the tone of their portrayal of probation and/or the Probation Service. Examples of positive portrayals included calls for greater use of community sanctions as a more rational and less harmful response to crime. Noteworthy here is that the portrayal of probation in positive terms is conveyed through comparison to the perceived negatives of the prison systems. The extract from the article below provides one such example:

‘Time to look outside the narrow window of prison?’ - Irish Times, 03.09.2005 (PM10)

This feature-length article (1070 words) provided an in-depth account of the work of the Probation and Welfare Service in the context of the publication of a research report on the relationship between homelessness and contact with the criminal justice system (Seymour & Costello, 2005). In the article the negative effects of imprisonment, including the heightened risks of homelessness are juxtaposed alongside the potential positive impact of probation. The outgoing head of the Probation and Welfare Service is extensively quoted in the piece, decrying a government decision to increase the number of prison spaces while failing to invest adequately in community supervision:

*Sean Lowry, who has just ended a three-year term as head of the **Probation and Welfare Services**, is not surprised by the findings.*

"It confirms what we have known for some time - that a lot of people who should not be there are ending up in prison." He questions the Government's plans to increase prison spaces by 1,000 to 4,200.

*"I think it's the wrong direction," he says. "The numbers of people in custody are reasonably low but they are higher than they need to be. This piece of research is bearing that out, that there are lots of people in the prisons who don't need to be there. They are there because the resources have not been made available in the **probation** service to advise the judges what they need to know."*

Articles referring to the work of the Probation Service, which were perceived to be ‘negative’ in tone, were typically those referring to high profile serious offenders or offending, most prominently sex offending. These ranged from news reports, which critiqued the imposition of community sentences for possession of child pornography, such as the example below:

‘Some are jailed and some walk free over child porn’ - Irish Times, 18.01.2003 (PM346)

Rather than ‘walking free’ as the headline of this article suggests, the individuals in question were given community sentences (community service orders), however, juxtaposed against prison sentences these are portrayed as unfavourably lenient

disposals. In the previous day's edition of this newspaper some context on the court's sentencing is provided by the newspaper's Legal Affairs Correspondent:

*Some people may be surprised by the handing down of a **community service** order in the first trial of one of those arrested and charged under the Garda Siochana's high-profile "Operation Amethyst". This involved raids at 90 addresses around the State last May as part of a crackdown on child pornography on the Internet.*

Irish Times, 17.01.2003 (PM320)

Alongside the trope of 'leniency', particularly in respect of community sentences for sex offences seen in a range of coverage, the question of the power of probation, to monitor, control and regulate sex offenders post-release from custody is a further consistent thematic.

'Gardaí keeping watch on 1,100 sex offenders' - Irish Independent, 10.11.2008 (PM472)

The above article referring to the numbers of registered sex offenders 'being monitored' by the police (Gardaí) reports the absence of breaches of sex offender orders by either the police or the Probation Service in the relevant time period.

THE number of sex offenders being monitored by gardai has increased by almost a third to nearly 1,100 in the last four years.

*But despite the increase in offenders under supervision, gardai say they have not encountered any breaches of sex offender orders. These are imposed on some offenders on release from prison to protect the public from serious harm. Similarly, the **Probation** Service, for the same four-year period, has not recorded any breaches during post-release supervision of sex offenders, which is monitored by the service and gardai.*

The fact that no offenders were found in breach of supervision requirements or orders came as a surprise to victims' groups, who claimed supervision programmes were under-resourced and understaffed.

Here the article suggests a failure of agencies within the criminal justice system to fulfil their public protection role by adequately monitoring sex offenders within the community, although, this critique is accompanied by a limited caveat in so far as it recognises that the under-resourcing of probation and other agencies undermines their ability to carry out this role.

Performance of Probation undermined by poor resourcing

In fact the question of resourcing is one that permeates a range of coverage over the 12-year period considered in this analysis and in some respects the question of resourcing can be seen to act as a buffer against more trenchant criticism of probation seen in other jurisdictions (Bauwens and Mair, 2012; Fitzgibbon, 2012). Following this thematic, there is a range of examples (some of which are included below) in which the service is portrayed as the poor relation of the criminal justice system.

'Probation Service 'lacking in resources'' Irish Times, 02.07.04 (PM01)

Under this headline this article goes on to detail the increased demand for the services of probation but the curtailment in the use of community sentences by the judiciary as a result of resourcing and ability to deliver.

*The PAC⁹ was hearing responses to a report from the Comptroller and Auditor General on value for money in the **Probation and Welfare Service**¹⁰.*

⁹ Parliamentary Public Accounts Committee (PAC)

*The report says demand on the service has increased since 1995, particularly as a result of judges using the option of deferring custodial sentences pending a period of supervision. There has, however, been a decline in the use of **community service** orders by judges, partly because the service is overstretched.*

Irish Times, 02.07.04 (PM01)

Similarly, the Probation Officer's trade union is vocal in its criticisms of the resourcing of the service and on the ability to fully implement services.

'Huge workloads affecting offender supervision claim.' *Irish Times, 03.01.2008 (PM393)*

Court reporting, routines of justice and probation visibility

However, for the most part the extent of probation coverage within the media is less focused on broader criminal justice policy concerns and more on individual cases with over two-thirds of articles (n=345 from the total of 542) dealing with specific cases. Here the vast majority of references to probation or community service occur in the context of reports on criminal justice proceedings. For the most part, these are routine references and overall can be characterised as 'neutral' in tone – i.e. neither conveying positive nor negative representations of probation. Some examples include:

A woman who defrauded the Department of Social Welfare of nearly 40,000 (pounds) over a seven-year period has been ordered to do 150 hours' community service... *Irish Times, 18.07.2002 (PM13)*

Three civil servants and a law agent have been ordered to carry out community service in addition to suspended prison terms and fines they received for corruption. *Irish Independent, 07.07.06 (PM355)*

The teenager's counsel said the boy had been convicted of the motoring offences in January and the case had been put back until yesterday for a probation report to be furnished on his suitability to do community service and to see if he had come to adverse garda attention since.

Irish Independent, 13.02.07 (PM374)

Most of the reports from the criminal courts referred to routine court proceedings (i.e. everyday processing of criminal justice cases) and the type of sanctions referred to included the imposition of community service or probation.¹¹ However, we have not undertaken a comparative analysis of probation compared to other criminal justice sanctions such as imprisonment and therefore cannot comment on whether probation policy and sanctions are more or less visible than prison sentences for instance. Although international literature on media reporting of crime would suggest that more serious and/or unusual offences and those most likely to receive a prison sentence tend to garner more media coverage, and Ireland is unlikely to be unique in this respect (Reiner, 2007). Our analysis does suggest that probation within Ireland has a certain visibility most prominent in the routine reporting of court sentences.

¹⁰ Comptroller and Auditor General, (2004), *The Probation and Welfare Service: Report on Value for Money Examination*, Dublin: Government of Ireland

¹¹ An interesting dimension of the overall coverage of probation in the media in the Republic of Ireland is the relatively high representation of news stories relating to US-based 'celebrity' probation cases. Of the total sample of 542 articles analyzed, 35 (over 6% of the sample) related to celebrities who had received a community sentence or who were subject to post-custodial supervision. Lyndsay Lohan's travails with the criminal justice system featured most prominently (21 references) followed by criticisms of the perceived leniency of rapper Chris Brown's community sentence for an assault on his partner Rihanna (5 references).

Overall we have found that the tone of reporting of probation is neutral. There has not been, for example, a high profile case of a so-called public protection ‘failure’ as seen in England (Fitzgibbon, 2012) or Belgium (Mair & Bauwens, 2012). But this is in part due to the fact that probation’s role in Ireland has for many years been relatively limited and it therefore has not made the same claims, (or had the same expectations placed upon it), to ‘protect the public’ as seen elsewhere. As such probation in the Republic of Ireland cannot be said to have suffered from a crisis of legitimacy of this nature. It is notable, however, that in recent years greater attention has been paid to the probation role within the Irish context evident in an increased coverage within the print media.¹²

Community Return and the contingency of the prison/probation relationship.

Here more recently there has been a discernible shift in probation’s relationship with the prison system and the contingent nature of this relationship is seen in the extracts from articles below in response to the introduction of the *Community Return Scheme*. The newspaper coverage of the scheme to reduce prison numbers through earned and supervised release we argue marks a change in tone in media discourse on the prison/probation juxtaposition as illustrated in the extracts below.

PRISON CELLOUT; PENAL SYSTEM REFORM THE BACKLASH

"The minister should not simply look at the monetary costs associated with the prison system as the emotional toll on families has to be considered.

"On the one hand there are balance sheets, but on the other there is common sense.

"Described in terms of being a 'win-win' situation, we fail to see how victims benefit from the programme. We cannot be in a position where offenders' rights are placed above those of victims.

The Mirror, 01.05.2012 (PM565)

1200 CONVICTS TO BE FREED; Violent criminals serving eight years or less could get early release

ABOUT a quarter of the country's prisoners are to be released over the next three years - amid victims' fears that violent criminals will be among those freed. Under a controversial new plan to relieve chronic overcrowding in our jails, and to save money, 1,200 inmates will be let out from behind bars to do community work. Some 400 will be freed on the scheme every year for the next three years, amounting to about 25 per cent of the 4,421 prison population - this doesn't include 805 on temporary release. The convicts will not be electronically tagged, even though those serving sentences up to eight years could apply...

Irish Mail, 01.05.2012 (PM584)

Interestingly an article in the *Irish Examiner* on the topic gives the perspective of a probation union official on the resourcing of the scheme and the ‘shifts in demand’ from one system to another.

Serious questions over plan to free 1,200 prisoners –

Irish Examiner, 02.05.12 (PM598)

"We have no issue with the community return scheme in principle. In fact we welcome it.

¹² Our analysis points to an increase in the number of articles on probation over time. For example 19 relevant articles were returned in our search for 2001, by 2007 this number had risen to 65.

"We see the use of the community return scheme as potentially offering a chance to address the overcrowding issue in prisons and positively impact on offenders and future offending at the same time.

"Our issue is that we have already been asked to take on additional workload and our general staff levels are down. All this is being done in the absence of staff and sites to provide it."

He told the Irish Examiner the Government was shifting demand from "one pressurised system - the prisons - to another - the probation service".

This change in tone towards a more accusatory and alarmist approach to recent developments in probation, is reflected in the media response to the release of the results of a study on recidivism rates of offenders given probation in Ireland. As the proceeding analysis indicates, what should have been a 'good news story' for probation was in much of the media coverage inverted into quite the opposite.

Recidivism Study

The Probation Service published a recidivism study for the first time in November 2012 (Probation Service, 2012). The study reported on people placed on probation in 2007 and was based on reoffending and reconviction data up until 2011. The fact that 63% of people placed under probation supervision had no further conviction within two years following completion of their order was one of the study's main findings. However, when the study was covered in the newspaper media the following headlines appeared:

'One in Three Given Probation Convicted Again' (PM621, Irish Times, 20.09.12)

'37% on Probation Re-Offend Within Two Years' (PM600, Irish Examiner, 20.11.12)

There was some countering of this particular reading of the study's main findings in an opinion piece by the Director of the Probation Service in the following article in the *Irish Times*:

Justice Served by Probation (PM623 Irish Times, 17.12.12)

*...On the basis of our own research findings, and especially when compared internationally, there is strong evidence in favour of prioritisation of community sanctions as being effective and efficient in appropriate cases...If we are serious about offender rehabilitation, we must use imprisonment as a last resort and seek to divert as many offenders as possible away from jail. Supervised community sanctions, in the form of **Probation** and **Community Service Orders**, are effective and cost-efficient sanctions when applied appropriately and proportionately, as borne out by this research.*

Here the relative success and cost effectiveness of community sanctions when compared with prison sentences is set out, once again highlighting the manner in which in media representations probation is continually viewed through its comparison with prison.

CONCLUSION

The literature on the portrayal of probation and community sentences in the media highlights probation's invisibility and its public relations problem. It is argued that, along with its relative invisibility, the lack of public understanding of probation work is related to problems with its public legitimacy. The analyses of the findings of this small study suggest that probation and community sentences are not necessarily 'invisible' as both appear often in newspaper court reports. However, it is telling that probation is rarely discussed in its own right outside of the prison versus probation debate, thus pointing to its inherent contingency.

In our examination of the media portrayal of probation in Ireland we have uncovered a number of similarities in terms of the emergent themes and frames of reference that have much in common with the media portrayal of probation in other countries (Nellis & Hong Chui, 2003; Burke, 2008). Although we found a greater number of reports that portrayed probation in a very positive light, the negative aspects of the newspaper coverage contained a critique of probation in Ireland that rested on certain key issues that resonate with experiences elsewhere such as the management of sex offenders, the perceived leniency of probation orders and community sanctions, and the risks to the public and to victims contained in the community return scheme. Whilst these concerns do not dominate the media portrayal of probation they do reflect the changes that have occurred in the role of probation in Ireland over the last decade and also signal the risks associated with these changes for the public legitimacy of probation.

Whilst the experience in other countries is that the distinct agency of probation is under attack, if not the actual practice of probation work, in Ireland despite a relatively long history (since 1907), the Probation Service really only became established in the late 1970s and by 2007 it had an overall staff complement of 500 (Probation Service, 2008). Moreover, the formulation of penal policy in Ireland has typically been reactive rather than proactive and in trying to comprehend the changes that have occurred it is not unimportant that despite the expansion in the role of probation in recent years, much of the change it has undergone has been reactive. In this context it is arguable that a particular strength of the Probation Service in Ireland has been its ability to respond to changes elsewhere in the criminal justice system (e.g. an increased prison population) and the accompanying demands on its services whilst also remaining committed to elements of its underlying welfare orientation (despite its re-branding) (Carr et al, 2013; Healy, 2010).

Presently, probation in Ireland appears to be entering a period of experimentation with innovation largely driven by the need to reduce the prison population. Again this appears to echo the experiences of probation in other countries in so far as it involves 'shape-shifting' and the adoption of various rationales. Despite this, Ireland has not yet experienced large-scale growth in the use of probation that has occurred in England and Wales and in the USA (Phelps, 2013; Robinson et al, 2013).¹³ A

¹³ Notwithstanding the current proposals to disestablish probation services in England and Wales and outsource many of its core functions to private providers (see Burke, 2013)

recurrent issue, which perhaps explains the lack of any significant growth in probation numbers, is the question of resourcing. As highlighted earlier, the issue of limited resources is a constant theme in the media representations of probation in Ireland. Innovation without resources is unlikely to lead to growth in the use of probation and community sanctions.

This calls into question the motivations behind the recent expansion and innovation. Clearly, the motivation to increase the remit of the Probation Service in terms of the increasing use of non-custodial sanctions has more to do with reducing overcrowding in the prison system rather than recalibrating the system as a whole and tilting the balance in favour of non-custodial sanctions. It is unlikely that the expansion in probation numbers experienced in other jurisdictions will be possible in Ireland without a seismic change in penal policy and in the re-allocation of resources. In the meantime the Probation Service in Ireland may have largely escaped the negative media attention to date but the more it expands its remit the more likely it is to be the subject of a more critical media framing. This of course has implications for the public perception of its work and its perceived legitimacy.

As such, we believe that the contingency of probation's relationship with prison will be a critical factor in the future framing and positioning of probation and community sanctions. This in a sense has been part of probation's perennial struggle in many countries (Robinson et al, 2013), whether framed as an 'alternative to custody' or providing a form of (public) 'protection' that speaks to a particular ethos informed by the perceived need to 'toughen-up' (Nash, 2000)– in other words to appear more externally legitimate.

This inter-relationship is also reflected in shifts in both probation and prison populations. In the Republic of Ireland over the past 10 years both populations have risen, although in 2011 sentences to prison still out-stripped community sentences by a ratio of 2:1 (12,999:6653). However, the question of whether probation can provide a panacea to reduce imprisonment or act with the reverse effect (as a net-widener), bringing further numbers under the penal gaze - Phelps' (2013) so-called 'paradox of probation' effect - is one that merits further attention. This is particularly apposite in the context of the changing shape of the penal-probation relationship we have set out here.

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