CHAPTER-VI

PROTECTIVE, PREVENTIVE MEASURES AND JUVENILE DELINQUENCY
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Protective, Preventive Measures and Juvenile Delinquency

The children in conflict with law is not only protected under civil laws but also protected under Criminal laws in India, like Indian Constitutional Law, Indian Penal Code, Criminal Procedure Code, Indian Contract Act, Civil Procedure Code, and labour laws. The term prevention refers that 'prevention is better than cure' and to several different types of social action. Control is measure taken after criminal or delinquent act has committed. Both prevention and control should be viewed as subcategories of society's negative attitude, and action against crime and delinquency. Prevention is necessary to overcome factors in the immediate environment of children, which seem to contribute to their delinquency. Delinquency prevention is broadly linked up with general improvement in the institutional fabric of our society such as probation, parole services to youths and children, special schools and guidance clinics. Here prevention is viewed from angle of diagnosis and treatment of the delinquent. Three types of prevention can be differentiated.

Violence against children endangers their fundamental human rights. It is therefore imperative to convince individuals and institutions to commit the time, money, expertise and other resources needed to address this global problem. A number of United Nations instruments reflect a preference for social rather than judicial approaches to controlling juvenile delinquency. The Riyadh Guidelines assert that the prevention of juvenile delinquency is an essential part of overall crime prevention in society, and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, the Beijing Rules, recommend instituting positive measures to strengthen a juvenile's overall well-being and reduce the need for State intervention.

As a State Party to the Convention on the Rights of the Child and various other rules and guidelines on children's rights, the Government of India is bound to fulfill the duties set out in these instruments. International agreements on children's rights,
as they concern juveniles in conflict with law, promote a holistic approach, concerned
with the development, care, and protection of children throughout their interactions
with the juvenile justice system. Juvenile justice is more concerned with the
rehabilitation of its charges than is adult criminal justice. When discussing juveniles
in conflict with law, international agreements generally emphasize the importance of
preventing juveniles from coming into conflict with the law in the first place, as well
as an expectation of complete rehabilitation by the time they leave the juvenile justice
system. Throughout the proceedings within the system, "States Parties recognize the
right of every child alleged as, accused of, or recognized as having infringed the penal
law to be treated in a manner consistent with the promotion of the child’s sense of
dignity and worth." India’s original Juvenile Justice Act, 1986 written before many of
these international instruments were promulgated, did not align with their
requirements.

In response to the U.N. Committee on the Rights of the Child’s recommendation
that India incorporate the aims of the Convention on the Rights of the Child into
domestic legislation, a new law was passed. The Juvenile Justice (Care and Protection
between children and the legal system. From adoption to abuse and neglect to children
in conflict with the law, the Act is far reaching in its scope and intent. The provisions
within the Juvenile Justice (Care and Protection of Children) Act, 2000 like its
international predecessors, are intended to preserve the dignity and best interests of
the child

Various Protective Measures, Punitive Measures, Corrective Measures,
preventive Measures and legislative Measures are as under.

1. Protection of children under Indian Penal Code:

This is special protection given under I.P.C. that, “Nothing is an offence which is
done by a child under seven years of age.” Those who fall within the juvenile justice
system. This includes two categories of children - those in need of care and protection
and those who are in conflict with law.

The Indian Penal Code has very clearly laid down the age of criminal liability
at seven years. In other words, it is assumed that no child under seven years of age
can be guilty of any crime because under that age an infant is, by presumption of law
doli incapax, and cannot be endowed with any discretion. Under IPC further lays
down that nothing is an offence, which is done by a child above seven years of age, and under twelve, who has not attained sufficient maturity of understanding to judge the nature and consequences of her/his conduct on that occasion. In such cases the magistrate should take into consideration whether the child between the ages of seven to twelve years possesses sufficient maturity of understanding to realise the nature of her/his act. It is important in these kinds of cases to listen the child, understand the child’s views and recognise the circumstances of the cases from the child’s point of view. However, the hearing of such cases will be before the Juvenile Justice Board, set up under the present juvenile justice law in India. While children in both categories mentioned above fall within the purview of the juvenile justice system, any person aggrieved by an order made by a competent authority under the juvenile justice law is allowed to access a higher court.

- **Kidnapping from lawful guardianship:**

The IPC whoever takes or entices any minor under sixteen years of age if a male, or under eighteen years of age if a female, or any person of unsound mind. Out of the keeping of the lawful guardian of such minor of or person of unsound mind, without the consent of such guardian is said to kidnap such minor or person from lawful guardianship. The words “lawful guardian” in this section includes any person lawfully entrusted with the care of custody of such minor or other person. According to the section of the Indian Penal Code, whoever kidnaps any person from lawful guardianship shall be punished with imprisonment up to seven years, and fine. In this section “minor means-

- In case of a male, a person under sixteen years of age, and
- In case of a female a person under eighteen years of age.

- **Procreation of minor girl:**

Whoever, by any means whatsoever, induces any minor girl under the age of eighteen years to go from any place or to do any act with intent that such girl may be, or

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3 Section 82 of the Indian Penal Code 1860  
4 Section 361 of the Indian Penal Code 1860  
5 Section 363 of the Indian Penal Code 1860
knowing that it is likely that she will be forced or sources to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years, and shall also be liable to fine, procreation means providing of prostitute. Procreation is the crime of providing somebody for prostitution.\(^6\)

- **Kidnapping or abducting child less than ten years with intent to steal from person:**

  The person who kidnap or abduct any child under the age of ten years with the intention of taking dishonestly any movable property from the person of such child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also liable to fine.\(^7\)

- **Selling minor for purpose of prostitution etc:**

  Whoever sells, lets to hire, or otherwise disposes of any person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at. Any age be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.\(^8\)

- **Buying minor for purposes of prostitution etc:**

  Whoever buys, hires or otherwise obtains possession of any person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, of knowing it to be likely that such person will at any age be employed or used for any purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.\(^9\)

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\(^7\) Section369 of the Indian Penal Code 1860

\(^8\) Section 372 of the Indian Penal Code 1860

\(^9\) Section 373 of the Indian Penal Code 1860
Consent of the girls in rape cases:

The consent of the girl age below the 16 years is not to be treated as consent in the case of rape. Where the woman is raped by his husband when she is aged between 12-15 years it is punishable only up to two years or fine or both. According to the Indian Penal Code, 1860, a man is said to have committed 'rape' when he has had sexual intercourse with a woman under these conditions:

a. Against her will
b. With her consent when her consent has been obtained by putting her or any person in whom she is interested in, in fear of death or hurt.
c. With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.
d. With her consent, when at the time of giving such consent, by reason of unsoundness of mind or intoxication on the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature of the consequences of that of which she gives consent.
e. With or without her consent, when she is under 16 years of age.

The minimum punishment is ten years for custodial rape, gang rape, rape of pregnant women and minor girls under the age of 12 and seven years in other cases.

The Law Commission had suggested that where the statement of a girl-victim below twelve years of age is recorded, it should be done by a woman police officer or by a woman belonging to an organisation interested in the cause of women or children. The said recommendation should be accepted with certain changes set out in their note.  

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10 Section 375 of the Indian Penal Code 1860
- Act done in good faith for benefit of child or insane person, by or by consent of guardian:

“Nothing which is done in good faith for the benefit of a person under twelve years of age, or of unsound mind, by or by consent, either express or implicit of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the doer the cause or be known by the doer to be likely to cause to that person.”12

This exception shall not extend to:

i) The intentional causing of death, or to the attempting to cause death;

ii) The doing of anything which the person ding it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity;

iii) The voluntary causing of grievous hurt, or to the attempting to cause grievous hurt, unless it be for the purpose of preventing death or grievous hurt, or the caring of any grievous disease or infirmity;

iv) The abetment of any offence to the committing of which offence it would not extend.

2. Protection under Criminal Procedure Code:

When any person who is below twenty-one years of age or any women is convicted of an offence not being punishable with death or imprisonment for life and no previous conviction is proved against such person, the court may, having regard to the age character and antecedents of the offender and to the circumstances in which the offence was committed, order release of the offender on probation of good conduct for a period not exceeding three years on entering into a bond with or without sureties instead of sentencing him to any punishment.13

- Right to be notified of the charge:

Every police officer or other person arresting any person without warrant shall forthwith communicate to him full particulars of the offence for which he is arrested

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12 Section 18 of the Indian Penal Code 1860
13 Section 360 of the Criminal Procedure Code 1873
or other grounds for such arrest. Where a police officer arrests without warrant any person other than a person accused of a non-bailable offence, he shall inform the person arrested that he is entitled to be released on bail and that he may arrange for sureties on his behalf.\textsuperscript{14} This principle is also mentioned under Indian Constitution that, no person shall be detained in the custody without being informed of the grounds of arrest.\textsuperscript{15}

- **Right to produce before Magistrate within 24 hours:**

  A police officer making an arrest without warrant shall, without unnecessary delay and subject to the provisions herein contained as to bail, take or send the person arrested before a Magistrate having jurisdiction in the case, or before the officer in charge of a police station.\textsuperscript{16} No police officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 167, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.\textsuperscript{17}

  Under Indian constitution it is fundamental right of children in conflict with law apprehended by the police due to violation of penal laws it also entitled to produce before magistrate within 24 hours.\textsuperscript{18}

- **Bail to juvenile conflict with the law:**

  Whether the juvenile commits a bailable or non-bailable offence the child shall be released on bail with or without surety. The only ground on which the juvenile can be detained is if there is reasonable ground for believing that the release is likely to bring into association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice. Further detention can only be in observation home and not in prison or police station. The bail provisions for young offenders are bar more liberal than those applicable under the Cr.P.C.

\textsuperscript{14} Section 50 of Criminal Procedure Code, 1973
\textsuperscript{15} See. Article 22(1) of the Indian Constitution.
\textsuperscript{16} Section 56 of Criminal Procedure Code
\textsuperscript{17} Ibid Section 57.
• Special provision in respect of pending cases:

All proceeding in respect of juvenile pending in any court in any area on the data on which this Act comes into force in that area shall be continued in that court as if this Act had not been passed and if the court finds that the juvenile has committed an offence. It shall record such finding and instead of passing any sentence in respect of the juvenile, forward the juvenile to the board which shall pass order in respect of that juvenile in accordance with the provision of this Act as if it had been satisfied on inquiry under this Act that juvenile committed the offence.19

3. Protection under Civil Procedure Code 1908:

Civil procedure code provides certain safeguards for children as under20-

(i) Suit by minor to be instituted by his next friend.21

(ii) Where suit is instituted by next friend, the defendant may apply for plaint to be taken off the file.22

(iii) Where defendant is minor the court on being satisfied of the fact of his minority shall appoint a proper person to be guardian for the suit of such minor.23

(iv) A decree against minor is not to be set aside unless prejudice has been caused to his interest.24

(v) The qualification as to who may act a a next friend or can be appointed as guardian for the suit.25

(vi) A minor shall be held made by his next friend or can be appointed as guardian.26

(vii) Friend or guardian for the suit shall not with or without leave of the court.27

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19 Section 33 of Juvenile Justice Act, 2000
20 Order XXXII of the Civil Procedure Code, 1908
21 Rule 1 of XXXII of the Civil Procedure Code, 1908
22 Ibid. Rule 2.
23 Ibid Rule 3.
24 Ibid. Rule 3A.
25 Ibid Rule 4
26 Ibid Rule 5.
27 Ibid. Rule 6.
4. Protection under Labor Laws:

Under Indian Constitution there are more than 200 articles which are protecting the interest of the children. Out of them most important is given to the fundamental rights of the children. Children are protected under various sections of the labour laws as under-

- **Factories Act, 1968:** Under this Act there is provision for prohibition of employment of young children who has not completed his 14 years shall be required or allowed to work in any factory.28

- **The Plantation of Labour Act 1951:** The child who has completed the age of 12 years shall not allow working in any plantation.29

- **The apprentices Act, 1882:**

  From and after the passing of this Act, every person using and exercising any art, mystery, craft, trade or occupation may take any person, of an age not less than ten or more than sixteen years, to serve and be bound as an apprentice, in like manner as apprentices in England, for a term not exceeding five years.30

- **Merchant Shipping Act, 1958:**

  No person under fifteen years of age shall be engaged or carried to sea to work in any capacity in any ship, except-

  a. In a school ship, or training ship, in accordance with the prescribed conditions; or

  b. In a ship in which all persons employed are members of one family; or

  c. In a home-trade ship of less than two hundred tons gross; or

  d. Where such person is to be employed on nominal wages and will be in the charge of his father or other adult near male relative.

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28 See Sec. 67 of the Factories Act, 1968.
29 See Sec. 24 of the Plantation of Labour Act, 1951.
30 See Section 3 of the apprentices Act, 1882
• The Mines Act, 1952:

"No child below eighteen years of age shall be allowed to be present in any part of a mine above ground where any operation connected with or incidental to any mining operation is being carried on"

• Motor Transport workers Act, 1961:

Under this Act it is strictly prohibited employment of the children in any Motor Transport undertaking.31

• Beedi and Cigar workers (Condition of employment Act), 1966:

Under this Act the prohibition is imposed on children to work in any industrial premise. It also prohibits the employment of children below the age of 14 years and of young persons between the ages of 14 to 18 years in any industrial premises. This Act also restricts the women workers working in night shifts from 7.00 p.m. to 6.00 a.m.

The employees covered by the study have been classified into three broad age groups.

• Provision for juvenile under International Declaration and Convention:

• Childhood is entitled to special care and assistance all children, whether born in or out of wedlock, shall enjoy the same social protection.32

• Every child has the inherent right to life.33

• Sentence of death shall not be imposed for crimes committed by any person below the age of eighteen years.34

• In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.35

31 See. Section 21 of the Motor Transport workers Act, 1961
32 Article 25 (2) of UDHR
33 Article 6 (1) of ICCPI, 1966
34 Article 6 (5) of ICCPI, 1966
35 Article 14 (4) of ICCPI, 1966
• **The Child Labour (Prohibition and Regulation) Act, 1986:**

  Child shall not be employed or permitted to work in any of the occupations set forth in Part A of the Schedule or in any workshop wherein any of the processes set forth in Part B of the Schedule is carried on.

  A proviso is intended to limit the enacted provision so as to except something which would have otherwise been within it or in some measure to modify the enacting clause. Sometimes proviso may be embedded in the main provision and becomes an integral part of it so as to amount to a substantive provision itself.  

5. **The Indian Evidence Act, 1872:**

  Birth during marriage is conclusive proof of legitimacy of child. The fact that any person was born during the continuance of a valid marriage between his mother and any man, or within two hundred and eighty days after its dissolution, the mother remaining unmarried, shall be conclusive proof that he is the legitimate son of that man, unless it can be shown that the parties to the marriage had no access to each other at any time when he could have been begotten.

  All persons shall be competent to testify unless the Court considers that they are prevented from understanding the questions put to them, or from giving rational answers to those questions, by tender years, extreme old age, disease, whether of body or mind, or any other cause of the same kind. A lunatic is not incompetent to testify, unless he is prevented by his lunacy from understanding the questions put to him and giving rational answers to them.

6. **Indian Contract Act, 1872:**

  Determination of rights and duties of partners by contract between the partners Subject to the provisions of this Act, the mutual rights and duties of the partners of a firm may be determined by contract between the partners, and such contract may be express or may be implied by a course of dealing. Such contract may be varied by

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36 See. Section 3 of the Child Labour (Prohibition and Regulation) Act, 1986
37 See. Section 112 of the Indian Evidence Act, 1872.
38 See. Section 118 of the Indian Evidence Act, 1872.
consent of all the partners, and such consent may be express or may be implied by a course of dealing.39

2. Corrective Measures:

There are various measures are taken into consideration for prevention of Juvenile delinquency prevention by way of programmed like at the individual level, group level, family level, community level or the society level.

1. Individual Level programmes:
These programmes mainly aim at locating programme children and their families, referring them to appropriate agencies for diagnosis and treatment and successive fallow up measures. They aims to provide for the care, Protection and treatment of the destitute, abandoned, neglected, abused and exploited children.

2. Group Level programmes :-
These programmes consider the problem of juvenile delinquency to be commonly a group experience and hence aim at focusing mainly on the group in which the individual operates. Frequent discussion are made of the behavior of the individuals in the group with an inherent motive of the helping and controlling each other. The idea behind is that a person is always more responsive to the influence of his fellow-mates and peers, than to any other outside agencies.

3. Family Level programme:-
The family is a fundamental unit immediately affecting the personality development of a juveniles. Hence these Family Level programmes aim at strengthening the family’s role in the molding of the personality of the individual. They provide guidance to the family members in carrying and supervising their children.

- Family

Every society should place a high priority on the needs and well-being of the family and of all its members. Since the family is the central unit responsible for the primary socialization of children, governmental and social efforts to preserve the integrity of the family, including the extended family, should be pursued. The society

has a responsibility to assist the family in providing care and protection and in ensuring the physical and mental well-being of children. Adequate arrangements including day-care should be provided. Governments should establish policies that are conducive to the bringing up of children in stable and settled family environments. Families in need of assistance in the resolution of conditions of instability or conflict should be provided with requisite services.

Where a stable and settled family environment is lacking and when community efforts to assist parents in this regard have failed and the extended family cannot fulfil this role, alternative placements, including foster care and adoption, should be considered. Such placements should replicate, to the extent possible, a stable and settled family environment, while, at the same time, establishing a sense of permanency for children, thus avoiding problems associated with "foster drift".

Special attention should be given to children of families affected by problems brought about by rapid and uneven economic, social and cultural change, in particular the children of indigenous, migrant and refugee families. As such changes may disrupt the social capacity of the family to secure the traditional rearing and nurturing of children, often as a result of role and culture conflict, innovative and socially constructive modalities for the socialization of children have to be designed.

Measures should be taken and programmes developed to provide families with the opportunity to learn about parental roles and obligations as regards child development and child care, promoting positive parent-child relationships, sensitizing parents to the problems of children and young persons and encouraging their involvement in family and community-based activities. Governments should take measures to promote family cohesion and harmony and to discourage the separation of children from their parents, unless circumstances affecting the welfare and future of the child leave no viable alternative.

It is important to emphasize the socialization function of the family and extended family; it is also equally important to recognize the future role, responsibilities, participation and partnership of young persons in society. In ensuring the right of the child to proper socialization, Governments and other agencies should rely on existing social and legal agencies, but, whenever traditional institutions and
customs are no longer effective, they should also provide and allow for innovative measures.

4. **Community Level Programmes:**

In Community Level Programmes, the aim is to involve people in areas with high delinquency rates in programmes specifically designed for delinquency prevention. The people whose children are likely to become delinquents are the principal participants. A strict watch is kept over areas of social vice such as gambling and Red light areas, as also over unscrupulous adults who exploit juveniles for their own ends. Community based programme may be as under-

- Community-based services and programmes which respond to the special needs, problems, interests and concerns of young persons and which offer appropriate counselling and guidance to young persons and their families should be developed, or strengthened where they exist.

- Communities should provide, or strengthen where they exist, a wide range of community-based support measures for young persons, including community development centres, recreational facilities and services to respond to the special problems of children who are at social risk. In providing these helping measures, respect for individual rights should be ensured.

- Special facilities should be set up to provide adequate shelter for young persons who are no longer able to live at home or who do not have homes to live in.

- A range of services and helping measures should be provided to deal with the difficulties experienced by young persons in the transition to adulthood. Such services should include special programmes for young drug abusers which emphasize care, counselling, assistance and therapy-oriented interventions.

- Voluntary organizations providing services for young persons should be given financial and other support by Governments and other institutions.

- Youth organizations should be created or strengthened at the local level and given full participatory status in the management of community affairs. These organizations should encourage youth to organize collective and voluntary projects, particularly projects aimed at helping young persons in need of assistance.
• Government agencies should take special responsibility and provide necessary services for homeless or street children; information about local facilities, accommodation, employment and other forms and sources of help should be made readily available to young persons.

• A wide range of recreational facilities and services of particular interest to young persons should be established and made easily accessible to them.

5. Society Level Programmes:
These programmes strive to bring about a change in the unfavorable environments responsible for delinquency. The emphasis are in on ‘social reconstruction’ as a whole providing for social services in the field of housing, sanitation, education, employment opportunities and the like. In short, efforts are made to alter conditions responsible for juvenile delinquency.\textsuperscript{40}\textsuperscript{41}

• Socialisation Process:
Emphasis should be placed on preventive policies facilitating the successful socialization and integration of all children and young persons, in particular through the family, the community, peer groups, schools, vocational training and the world of work, as well as through voluntary organizations. Due respect should be given to the proper personal development of children and young persons, and they should be accepted as full and equal partners in socialization and integration processes.

• Assure healthy growth and development and development of the destitute and neglected children through community based homes:
Most of our youngsters kids who have failed persistently in just about everything that they have tried, largely because their families have not given them such emotional support and they have been shunted from place to place. Often they broke houses and live in foster homes. They have been in other institutions as well and they have had no

\textsuperscript{40} Child Welfare Journal of the child welfare of America, April, 1977.
continuity in their lives and have never given opportunity to settle down anything with fire foundations.

• Caring for the girl child:

The longstanding inequality the girl child has faced in our country in the social economical and political fronts has its own repercussions of her development. Since ages she has been exploited and treated inferior. Various measures have to be taken to uplift their degradation. “Equality of status and opportunity” as enshrined in the preamble in our constitution should be practically implemented in this field.

• Caring for the children employed mother:

Rapid urbanisation and industrilisation has led to the breakup of the joint family system. In a house where both the parents are working, it often happens that the children get neglected. The entire character and personality of an individual has its foundation in the early childhood days. Hence, almost care love and supervision and guidance in the right direction become a necessity.

• Caring for the children in slums:

Slum juveniles are often the neglected one. Hence there is need to establish additional housing units to assure safeguards against the physical and social hazards of overcrowding. Attention should also be paid to the lighting, ventilation and sanitation facilities in slums. Effective laws should be passed in the field of compulsory sanitation and sewage disposal and prevention of fire hazards and overcrowding.

• Caring for the employed children:

Employed children are many times exploited in terms of labour, pay scales and working conditions. There should be continuous publicity on employment standards in relation to age, hours of works and working conditions for young people.

• Caring for the handicapped children:

The physically handicapped children often become conscious of their handicap and develop their inferiority complex and try to shun themselves from the society. Hence there should be proper diagnosis and treatment abilities available for them to enable them to function as normally as possible.
• Control of harmful influence in the community:-

1. Maintain decent conditions in places of public entertainment and recreation.
2. Closing houses of prostitutions and controlling conditions that lead to prostitution in hotels in the streets and elsewhere.
3. Eliminate harmful practices, such as sale of obscene literature and sale of liquor and drugs to minors.
4. Children with families belonging to the lower financial stare should be given priority in services like-
   • Housing Facilities equipped with at least the minimum ventilation, sanitation, sewage disposal arrangement.
   • Free distribution of food, grains, milk and the like.
   • Free closing to be supplied at least twice a year.
   • Free and compulsory education and supply of necessary books and stationary subsidies rates.
   • Employment of opportunities for their family members

All these steps will lighten the burden of poverty to a great extent. Adoption and practical implementation of topic IV “youth crime and Justice” of the ‘Beijing Rules’ declared at the seventh United Nations Congress on the prevention recommending the following:-

• Participation of the youth in the national development particularly in the field of work, education, politics, law and cultural activities.
• Recognising the role of the family in the personality development of a juvenile and hence strengthening this foundation structure as a whole.
• Strengthening the educational system and making it feet to meet the emotional and social needs of youth.
• Paying special attention to the houses and streets children in the urban settings.

• Proper urban planning by creating adequate social and recreational activities for the youth.
• Paying special attention to youth criminality in urban and rural areas.
• Effective planning for crime prevention by using new methodological approaches and analysis at the International Levels.
• Paying special attention to family juvenile offenders involved in drugs and other offences.
• Educating the young on the dangers of both legal and illegal drugs and alcoholism.
• Further studies in the field of youth violence.
• Research should be made to study the influence of mass media of communication—both in positive and negative ways and its contribution to youth crime.
• Research should also be focused on the social, economical, educational, political and cultural factors and their influence on violent crimes.
• Special attention should be paid to the negative aspects of external cultural influence on youth.
• Greater awareness of the need for integrating measures to prevent youth criminality should be developed.
• Due stress should be laid on the development of participatory processes for saving youth conflicts wherever possible.
• Preventive programmes of youth criminality should give importance to educative rather than positive measures.
• Research should be undertaken to identify the relationship of psychological disorders and other health problems to delinquent and criminal behavior.
• The United Nation should proclaim one year as the international level year of crime prevention.

National programmer of the youth development and prevention:—

Lastly, the multifaceted problem of delinquency calls for a combined and integrated programme at the national level. National efforts should be made to involve the youth with greater meaning, respect and responsibility in the day to day affairs of the society affecting them. Our various institutions should aim at better education,
family life, employment opportunities and many other social services for the youth. National efforts should also be made to eradicate poverty and rebuild the slums.

- **Containment Theory:**

  It would be quite relevant at this point to make reference to the containment theory of Waite C. Reckless\textsuperscript{43}. The containment theory is addressed primarily to the large to the middle range case of delinquency and crime. Between the two extremes serious crimes and pity offences the spectrum of crime and delinquency is middle range of norm violation, perhaps as big as to third or three quarters of officially reported as well as unreported cases of delinquency and crime. This theory is great significance to the present volume because it constitutes an effective of operational theory for the prevention of delinquency. Children with poor containment can be spotted early and can be prevented from committing offences. Programmes to help insulate vulnerable children from or against delinquency must operate on internalization of these stronger self components and the strengthening of the containing forces.

  This theory has two reinforcing aspects one is inner control system and another is Outer control system. The assumption is that strong inner containment reinforced by outer containment constitutes insulation against normal deviant behaviour. This theory is valid operational theory for the treatment of the of offender. Juvenile courts study individual cases and decide whether juvenile needs institutional treatment or care of parents or some other responsible person. Though the juvenile court does not deal directly with the treatment, it does not decide the line of treatment. Whether the courts cime of treatment is effective enough to create an outer containment consisting of insulation against deviant behaviour will be studied with the help of available case selected for the study.

  This theory points to the regulation of normative behaviour through resistance to deviant behaviour as well as through direction towards towards legitimate expectations. It may be that most of the regulation is in terms of defense against deflection. Inner containment consist of components such as self control, good self concept, ego strength, well developed super ego, high frustration tolerance, high resistance to diversion, high sense of social responsibility, proper goal orientation

ability to find substitute satisfaction and so on. These are inner regulations. In families and neighborhood where there are primarily controls and spontaneous but disciplined relations, the children developed good inner containment.

This theory points two regulation of normative behavior through resistance to deviance as well as through direction towards legitimate social expectations. It may very well be that most of the regulation is in terms of a defence of buffer against defection. It appears that inner and outer containment occupies a central position in between the pressure and pulls the external environment and inner drives and pulls. If individual has a weak outer environment the pressure and pulls will then have to be handled by the inner control system. If the outer buffer of individual is relatively strong and effective the individual’s inner defence system is not required to play such a critical role.

This theory as being the most useful for study and understanding of the cases that are dealt with by the juvenile courts. The court directs the child as well as the parents towards legitimate social expectations. The court decides every case after complete investigation about the family members and social environment where the child is to return. If the child lack in inner control system requires better family atmosphere, training and judged each case separately. For this purpose the children in conflict with law is needs to be admitted in the special home. Very few are released on bail. All kinds of investigation are possible when the child in conflict with law is under custody of the probation officer. If the child comes from unhealthy environment, the court can prevent him from being prey to bad outer forces or can see that he is properly protected.

Although the prevention is not job of the juvenile court or board alone. It plays a very significant role for preventing the child from becoming a criminal. It can place check on recidivism. It can diagnose each and every case separately and suggest treatment. If the court succeeds in taking the right decision, the child can be rehabilitated.

The typology of prevention programme is discussed by Paul Bratinghan and Faust is as under-

- Primary prevention which identifies the environmental conditions providing juvenile the opportunities for crimes and tries to alter them.

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• Secondary prevent wherein potential juvenile offenders are identified at the earlier possible stage and efforts are made for individual intervention, and neighborhood education, recreation and counseling programmers.

• Tertiary prevention is concern with the treatment of the actual juvenile delinquents to prevent them from committing further crimes.

3. Preventive Measures:

1. Improving the present condition in our institutions:

   It has been seen that if is in the nature of our juvenile correctional institutions to be impersonal, procedure bound, dogged by insufficient funds and untrained staff. They suffer from serious drawbacks like reutilized authoritarian administration lack of proper treatment facilities, inadequate services, lack of supervision and control, too such emphasis on custody, personnel problems, indifferent attitude of state Governments and the like.

   The problem is ideas typical of any welfare activity scarcity of manpower and resources and the consequent dilution in quality. Besides, they have erred in their outlook and philosophy, routine schedule, personnel elections and performance level as well. There is a wide gap between on paper drafted treatment ideals and the actual institutional practices followed. At the practical implementation level, one considers them synonymous with mini prisons with four walls, preoccupied with custody, security and disciplines. Their personnel are often people who are grossly disintegrated is the day to day welfare activities of the children. The functionaries generally comprises of two three probation officers for the entire institution, disintegrated supervisory staff and the watch and ward staff. The children in those institutions often develop feeling of hatred and vengeance towards the staff and complain of arbitrary punishments, different staff, bad food, insufficient clothing and dull routines.

   The only way is to improve their present conditions this can be done by providing standard food, clothing, and shelter, education, and psychiatric, medical facilities, religious and moral training. Juvenile justice staff, including magistrate, police, probation officers, and institutional personnel should be provided with refresher training on all aspects of juvenile delinquency and child psychology,
wherever appropriate. Social workers, voluntaries and religious teachers should be encouraged to visit the children in the institutions and guide them. Besides all this individualized correctional treatments plans should be drawn for each inmate considering his social and economic background, education, physical health, mental capacity, likes and dislikes etc. All this will definitely go a long way in building a good reputation for our institution and in simultaneously producing self-confident and worthy youngsters for any children,

2. A greater emphasis on Deinstitutionisation:-

Today the whole world has realist that life at the correctional institutions is often barren, fertile and at times even brutal and degrading. The compulsory loss of liberty and involuntarily separation from family has always been considered by the inmates as punitive measures. Hence they require policy that facilities their growth by avoiding permanent stigma and their isolation from community settings. The key issue is how to balance infavour of non-institutional correctional measures.

The voluntary services must be developed in every community for the juvenile delinquents. The network consist series of voluntary service systems, such as day treatment, no secure shelter, group home and institutional care centers. A Deinstitutionisation measure includes juvenile probation, foster homes, adoption and sponsorship. Probation gives the juvenile offender another chance to improve and live a normal life by remaining in the community itself. Foster home provides the child with a home like atmosphere with a non-authoritarian environment. Adoption can be successfully tried out in the case of neglected children and the abandoned ones whose parents cannot look after the child's physical, social, emotional, and other developmental needs. In sponsorship the responsibility for bearing the cost of maintenance of the child is taken over by the sponsorer.

3. Greater emphasis on after-care facilities:-

Inadequate resources and shortage of dedicated worker has thwarted the development of after care services in our country. A systematic follow-up of the inmates released from correctional institution is absolutely essential for their post release welfare and development. Hence, regular contract with inmates and a provision for guidance and cancelling services. Many a times it may happen that on being released from the
correctional institution, the juvenile has nobody to accept his and keep him. Under such circumstances, the after care organizations should give his all the possible support till he becomes independent financially. For this, the after care organizations should also help him in setting a suitable job. Voluntarily workers should also be encouraged in this field.

4. Recognition of the role of police in the treatment and rehabilitation of juvenile delinquents:-

The police can go a long way in curbing juvenile delinquency. At the detection level they can keep a constant watch and vigil over delinquency prone areas, especially the slums. They calls keep track of families with high criminal records. They also help to locate wandering street children who are often abandoned a neglected and refer to the juvenile institutions. They are also come to the rescue children who are being exploited by adults for illicit purposes, prostitution, drug trafficking and the like. Thus the police are very important role in the prevention and control of juvenile delinquency and should be given proper status and recognisition for their work in this field.

5. Need for indivisulised approach:-

Each juvenile has a unique and distinct personality of his own. His behavior and attitude manners and dispositions are a result of several life experiences in his surroundings. Hence there can be definite standard way to rehabilitate a juvenile delinquents. At the very first stage neglected and delinquents juveniles have to be segregated between themselves. The mentally deficient children need separate treatment. The treatment programme should have appreciation for the juvenile’s personality and correctional needs.

Decisions affecting the juvenile should also take into consideration the option and views of social welfare workers and psychiatrist wherever required. The emotional need of the physically handicapped child should also be considered. The age of the child, the mental capacity and physical development are the other deciding factors. Accordingly two juveniles should be treated at par and appropriate treatment course should be charted out for each juvenile.
To conclude, children should be the starting point of an international development strategy that emphasizes human development will shape the future of the world. Spending after the day to day welfare activities of the children is an investment with long term benefits and capital gains. On the other hand, the neglect will lead to nothing but the vicious circle of poverty, crimes and under developments.44

• United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)

The present Guidelines should be interpreted and implemented within the broad framework of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Declaration of the Rights of the Child and the Convention on the Rights of the Child, and in the context of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), as well as other instruments and norms relating to the rights, interests and well-being of all children and young persons. The present Guidelines should also be implemented in the context of the economic, social and cultural conditions prevailing in each Member State.

• The prevention of juvenile delinquency is an essential part of crime prevention in society. By engaging in lawful, socially useful activities and adopting a humanistic orientation towards society and outlook on life, young persons can develop non-criminogenic attitudes.
• The successful prevention of juvenile delinquency requires efforts on the part of the entire society to ensure the harmonious development of adolescents, with respect for and promotion of their personality from early childhood.
• For the purposes of the interpretation of the present Guidelines, a child-centred orientation should be pursued. Young persons should have an active role and

partnership within society and should not be considered as mere objects of socialization or control.

- In the implementation of the present Guidelines, in accordance with national legal systems, the well-being of young persons from their early childhood should be the focus of any preventive programme.

- The need for and importance of progressive delinquency prevention policies and the systematic study and the elaboration of measures should be recognized. These should avoid criminalizing and penalizing a child for behaviour that does not cause serious damage to the development of the child or harm to others. Such policies and measures should involve:

  - The provision of opportunities, in particular educational opportunities, to meet the varying needs of young persons and to serve as a supportive framework for safeguarding the personal development of all young persons, particularly those who are demonstrably endangered or at social risk and are in need of special care and protection;

  - Specialized philosophies and approaches for delinquency prevention, on the basis of laws, processes, institutions, facilities and a service delivery network aimed at reducing the motivation, need and opportunity for, or conditions giving rise to, the commission of infractions;

  - Official intervention to be pursued primarily in the overall interest of the young person and guided by fairness and equity;

  - Safeguarding the well-being, development, rights and interests of all young persons;

  - Consideration that youthful behaviour or conduct that does not conform to overall social norms and values is often part of the maturation and growth process and tends to disappear spontaneously in most individuals with the transition to adulthood;

  - Awareness that, in the predominant opinion of experts, labelling a young person as "deviant", "delinquent" or "pre-delinquent" often contributes to the development of a consistent pattern of undesirable behaviour by young persons.

  - Community-based services and programmes should be developed for the prevention of juvenile delinquency, particularly where no agencies have yet
been established. Formal agencies of social control should only be utilized as a means of last resort.

4. General Prevention:

Comprehensive prevention plans should be instituted at every level of Government and include the following:

- In-depth analyses of the problem and inventories of programmes, services, facilities and resources available;
- Well-defined responsibilities for the qualified agencies, institutions and personnel involved in preventive efforts;
- Mechanisms for the appropriate co-ordination of prevention efforts between governmental and non-governmental agencies;
- Policies, programmes and strategies based on prognostic studies to be continuously monitored and carefully evaluated in the course of implementation;
- Methods for effectively reducing the opportunity to commit delinquent acts;
- Community involvement through a wide range of services and programmes;
- Close interdisciplinary co-operation between national, State, provincial and local governments, with the involvement of the private sector representative citizens of the community to be served, and labour, child-care, health education, social, law enforcement and judicial agencies in taking concerted action to prevent juvenile delinquency and youth crime;
- Youth participation in delinquency prevention policies and processes, including recourse to community resources, youth self-help, and victim compensation and assistance programmes;
- Specialized personnel at all levels.
Educational Protective Measures:

- Teaching of basic values and developing respect for the child's own cultural identity and patterns, for the social values of the country in which the child is living, for civilizations different from the child's own and for human rights and fundamental freedoms;
- Promotion and development of the personality, talents and mental and physical abilities of young people to their fullest potential;
- Involvement of young persons as active and effective participants in, rather than mere objects of, the educational process;
- Undertaking activities that foster a sense of identity with and of belonging to the school and the community;
- Encouragement of young persons to understand and respect diverse views and opinions, as well as cultural and other differences;
- Provision of information and guidance regarding vocational training, employment opportunities and career development;
- Provision of positive emotional support to young persons and the avoidance of psychological maltreatment;
- Avoidance of harsh disciplinary measures, particularly corporal punishment.
- Educational systems should seek to work together with parents, community organizations and agencies concerned with the activities of young persons.
- 23. Young persons and their families should be informed about the law and their rights and responsibilities under the law, as well as the universal value system, including United Nations instruments.
- Educational systems should extend particular care and attention to young persons who are at social risk. Specialized prevention programmes and educational materials, curricula, approaches and tools should be developed and fully utilized.
- Special attention should be given to comprehensive policies and strategies for the prevention of alcohol, drug and other substance abuse by young persons. Teachers and other professionals should be equipped and trained to prevent and deal with these problems. Information on the use and abuse of drugs, including alcohol, should be made available to the student body.
• Schools should serve as resource and referral centres for the provision of medical, counseling and other services to young persons, particularly those with special needs and suffering from abuse, neglect, victimization and exploitation.

• Through a variety of educational programmes, teachers and other adults and the student body should be sensitized to the problems, needs and perceptions of young persons, particularly those belonging to underprivileged, disadvantaged, ethnic or other minority and low-income groups.

• School systems should attempt to meet and promote the highest professional and educational standards with respect to curricula, teaching and learning methods and approaches, and the recruitment and training of qualified teachers. Regular monitoring and assessment of performance by the appropriate professional organizations and authorities should be ensured.

• School systems should plan, develop and implement extracurricular activities of interest to young persons, in co-operation with community groups.

• Special assistance should be given to children and young persons who find it difficult to comply with attendance codes, and to "drop-outs".

• Schools should promote policies and rules that are fair and just; students should be represented in bodies formulating school policy, including policy on discipline, and decision-making.

Legislation and Juvenile Justice Administration:

• Governments should enact and enforce specific laws and procedures to promote and protect the rights and well-being of all young persons.

• Legislation preventing the victimization, abuse, exploitation and the use for criminal activities of children and young persons should be enacted and enforced.

• No child or young person should be subjected to harsh or degrading correction or punishment measures at home, in schools or in any other institutions.

• Legislation and enforcement aimed at restricting and controlling accessibility of weapons of any sort to children and young persons should be pursued.

• In order to prevent further stigmatization, victimization and criminalization of young persons, legislation should be enacted to ensure that any conduct not
considered an offence or not penalized if committed by an adult is not considered an offence and not penalized if committed by a young person.

- Consideration should be given to the establishment of an office of ombudsman or similar independent organ, which would ensure that the status, rights and interests of young persons are upheld and that proper referral to available services is made. The ombudsman or other organ designated would also supervise the implementation of the Riyadh Guidelines, the Beijing Rules and the Rules for the Protection of Juveniles Deprived of their Liberty. The ombudsman or other organ would, at regular intervals, publish a report on the progress made and on the difficulties encountered in the implementation of the instrument. Child advocacy services should also be established.

- Law enforcement and other relevant personnel, of both sexes, should be trained to respond to the special needs of young persons and should be familiar with and use, to the maximum extent possible, programmes and referral possibilities for the diversion of young persons from the justice system.

- Legislation should be enacted and strictly enforced to protect children and young persons from drug abuse and drug traffickers.

Research Policy Development and research development:

- Efforts should be made and appropriate mechanisms established to promote, on both a multidisciplinary and an interdisciplinary basis, interaction and coordination between economic, social, education and health agencies and services, the justice system, youth, community and development agencies and other relevant institutions.

- The exchange of information, experience and expertise gained through projects, programmes, practices and initiatives relating to youth crime, delinquency prevention and juvenile justice should be intensified at the national, regional and international levels.

- Regional and international co-operation on matters of youth crime, delinquency prevention and juvenile justice involving practitioners, experts and decision makers should be further developed and strengthened.

- Technical and scientific co-operation on practical and policy-related matters, particularly in training, pilot and demonstration projects, and on specific issues
concerning the prevention of youth crime and juvenile delinquency should be strongly supported by all Governments, the United Nations system and other concerned organizations.

- Collaboration should be encouraged in undertaking scientific research with respect to effective modalities for youth crime and juvenile delinquency prevention and the findings of such research should be widely disseminated and evaluated.

- Appropriate United Nations bodies, institutes, agencies and offices should pursue close collaboration and co-ordination on various questions related to children juvenile justice and youth crime and juvenile delinquency prevention.

On the basis of the present Guidelines, the United Nations Secretariat, in co-operation with interested institutions, should play an active role in the conduct of research, scientific collaboration, the formulation of policy options and the review and monitoring of their implementation, and should serve as a source of reliable information on effective modalities for delinquency prevention.

It needs no mention that mere enactment of welfare legislation is not enough to achieve the object sought to be achieved but what is more important is to ensure proper implementation of such legislation in all earnestness and commitment at all levels. In recent times, there is tremendous progressive momentum to meet the challenges being faced for implementation of juvenile justice system in India.

There can be no two opinions that children are supremely important national asset and the country's future depends upon their proper development both physical and mental. Therefore, it is the responsibility of the society as well as the government to attend to the needs of the children by ensuring them the best growth and development so as to make them proper citizens of tomorrow. It is an accepted fact that no one is born criminal in this world. In a majority of cases, crimes are found to be the result of socio-economic conditions of the individuals. So far as children are concerned, being the most vulnerable group on account of their age and dependence, they can be easily exploited, abused and directed into undesirable channels by anti-social elements in the community.
However, the justice system available for adults is not suitable for application to juveniles and it is universally recognized that juvenile delinquents should be treated differently. Keeping this in mind, starting from the Reformatory schools Act, 1897, many enactments have been introduced in India from time to time exclusively for the purpose of juvenile justice. Having found that much greater attention is required to be given to the cand delinquent juveniles by adopting a child-friendly approach in the adjudication of matters and for their ultimate rehabilitation the Juvenile Justice (Care and protection of children) Act, 2000 has been enacted which is now in force. The said Act is a complete Code by itself and the provisions there under are exhaustive to ensure proper care, treatment and rehabilitation to both delinquent juveniles and neglected juveniles who are referred to in the Act as juveniles in conflict with law and the children in need of care and protection respectively.

Every care is taken under the Act to ensure that no child is put in the association of any known criminal and that no child is lodged in jail or police lock-up under any circumstances. Adequate provisions are made for a different kind of administration of justice not only at the stage of trial but also at the stage of investigation, pre-trial custody, bail and remand proceedings. Yet another important feature of the present Act is that it is aimed at achieving rehabilitation and social re-integration of the neglected and delinquent juveniles by providing effective provisions and various alternatives. The involvement of voluntary organizations in the implementation of various provisions of the Act to ensure proper care, treatment, development and rehabilitation of both neglected and delinquent juveniles is also an interesting feature of the Act. However, the fact remains that most of the provisions of the Act are yet to be worked out in a real way. The problems such as the long pendency of cases relating to juveniles, lack of proper facilities for child rehabilitation and mainstreaming, absence of protection in the Observation and Children Homes from abuse of juveniles and deprivation of childhood are still persisting in many States.