15.1.1. As the proverb goes, the 'child of to-day is the citizen of to-morrow. We, who have given unto us a 'Welfare State' as adumbrated in our Constitution, are morally and legally bound to make every child a worthy citizen, good, amiable, healthy, educated and disciplined, and foreign to any delinquency; then and then alone the society blooms and the Nation progresses, earning name and fame and maintaining its honour and prestige in the comity of nations.

15.1.2. Without showing the accusing finger at anybody, and without fear of contradiction, we are to realise that we are slowly, but surely, drifting to a crime-ridden society, and safety to a common man/woman appears to be farfetched. Leave alone adults and habituials, a considerable number of children in different strata of society, for different reasons, have become delinquents, indisciplined and crime prone. The Supreme Court of India, the highest judiciary of the country observed in a case on 5th day of August, 1986 that 1 "If a child is a national asset, it is the duty of the State to look after the child with a view to ensuring full development of its personality. That is why all the statutes dealing with children provide that a child shall not be kept in jail." Bhagwati, J, observed 2, "The State Government must set-up necessary remand homes or observation homes where children accused of an offence can be lodged pending investigation and trial. On no account should the children be kept in jail and if a State Government has not got sufficient accommodation in its remand homes or observation homes, the children should be

1 Bhagwati, J, Supreme Court of India, 1986 SCC (SLR) 71.
2 Ibid.
released on bail instead of being subjected to incarceration in jail." The State has the duty of according proper care and protection to children at all times, as it is on their physical and mental well-being that the future of the nation depends. With increased industrialisation and urbanisation, the state needs to be even more alert and vigilant in this respect.

If the law enforcing authorities are not vigilant, crime rate will necessarily increase to the detriment of the society. Let us have a bird's eye view of the legislation in the matter - Article 39(e) of our Constitution lays down - that the tender age of children is not abused and that childhood and youth are protected against exploitation and against moral and material abandonment. Inspite of these directives which according to the express terms of the Constitution are fundamental in the governance of the country and the State is duty bound to apply them in making laws, nothing tangible has been done to protect children against exploitation and moral and material abandonment. The Constitution also enjoins upon the State to make effective provision to secure right to education within the limits of its economic capacity and development. The Constitution also directs the State to provide for free and compulsory education for all children. The constitutional directives with regard to providing maternity relief and to raise level of nutrition, the standard of living and to improve public health are complimentary provisions to ensure a society where youth is able to make its due contribution to the task of national development. These directives were designed to persuade

3 Constitution of India, article 39 (e) and (f); 4 ibid, article 27; 5 ibid, article 41; 6 ibid, article 45; 7 ibid, articles 39 and 41.
the State to take certain positive steps to promote the welfare of the children.

15.1.3. Previously, there were State Children Acts in different states of their own. Of course, in some of the states there were no Children Acts of their own. The State like Orissa had her Children Act but one or other reason could not give effect to the said Act. For the Union territories, the Children Act, 1960 was brought for the special needs of the Juvenile delinquents. But for a long interval there was no uniform code for the children applicable to the entire country. But it was felt by the Highest Judiciary and the Legislature that an uniform law is essential for the protection and welfare of the entire country, otherwise, no fruitful purpose can be achieved and the proper justice cannot be extended to the juvenile delinquents. Considering these aspects the Juvenile Justice Act, 1986 has been passed on 1st December, 1986. This new Act is now extended to the whole of India except the State of Jammu and Kashmir. This Act was passed with an object to provide for the care, protection, treatment, development and rehabilitation of neglected or delinquent juveniles and for the adjudication of certain matters relating to, and disposition of, delinquent juveniles. The objectives and the salient provisions provided in the Act are commendable but presence of several drawbacks both in the provisions of the Act and practising procedure make its implementation ineffective and law appears to be merely a penal law but not a reformatory law. It is, therefore, very essential to suggest remedy to cure the situation, so that the Act will be an useful instrument to serve the purpose for which it is passed:

(a) that this Act, Magistrate may hold the proceedings in different buildings from that of trial or
criminal courts or at different times from that of ordinary shifting of such courts. In practice, the proceedings against delinquent juveniles are not conducted by a Magistrate in camera and usually the trial is conducted in an open court which is meant for adult offenders. The open trial creates fear in the tender minds of the juveniles and they feel that they are equally guilty with the habitual offenders. The unique character of the juvenile court consists in the informal way in which the deliberations take place within the court. That the court can refuse permission to a lawyer to plead on behalf on any delinquent juvenile is proof of its eagerness to retain the informal atmosphere within the Court. Also such informality as the Lady Magistrate taking the delinquent juvenile into confidence and asking him/her to confess, or affectionately expressing anxiety about his/her future, has brought in its own dividends. Even hardened boys have been won over to the courts' decision without any protest. It is suggested that the Juvenile judge should try to maintain the informal atmosphere within the juvenile court as far as practicable.

Measures should be taken to recruit the right kind of judicial officers with sociological outlook. Appointment of judicial officers remains in the quagmire of politics with the least sensitivity to qualifications and functions of the judicial office. Refresher courses should also be introduced for updating the knowledge of judicial, executive and administrative personnel in the technology of sentencing and correction.

(b) During the proceedings courts should pay much consideration for the report submitted by the Probation
Officer while deciding a case. The Probation Officer plays a significant role in producing non-routinized and yet reliable evidence which adds a new dimension to the whole case. He is the key authority for the purpose of making enquiry into the character, family background, socio-economic status of the child and environmental conditions in which the child has been brought up. The Court heavily leans on the honest and painstaking reportage of this person. The Probation Officer, in the way he functions, acts as a mediator between the court and the society and brings to the court a social rather than a legal base; the juvenile court, therefore, functions more as a social institution rather than as a legal one, the judgements are more a social than legal; the tools also are more social than legal. The Probation Officer’s role is all the more important because his function continues even when the delinquent juvenile is committed to an institution or to the care of parents.

(c) It is better even to appoint a court wise probation officer for quick disposal of the cases and avoid overcrowding in the observation homes. At the same time it saves the funds of the exchequer by releasing the deserving children on probation and treating them in their natural environment.

(d) The number of women must be increased both among the members of the Board and also on the Bench of Magistrates of the Juvenile Court as they can do fair justice to delinquent juveniles.

(e) Both in the case of delinquent and neglected juveniles, the Juvenile Court and the Juvenile Welfare Board

respectively may under certain specified circumstances place the juvenile under the care of parents, guardian, or other fit person upon their executing a bond with or without sureties for the good behaviour and well being of the juvenile for any period not exceeding three years. This is a commendable idea indeed. It is conceivable that the concerned fit person or guardian, irrespective of the tenure of his official responsibility may continue to look after the juvenile who grows up to adulthood gradually, but what is a matter of some concern is that no State Government seems to have done very much towards soliciting the cooperation of men and women in the society who may have the necessary means and qualities to act as guardian or fit person and take care of such juveniles as are in need of care, treatment and protection. Accordingly, wide propaganda and appeal from the side of the State Governments is the need of the hour with a view to enlisting the names and cooperation of sincere men and women who might prove to be useful in the matter. Needless to say, that necessary enquiries as to the character and antecedents of such individuals will have to be made before assigning any juvenile to them.

(f) Arrangements must be made for quick disposal of the case within the earliest possible period from the date of the charges made against the child. Every possibility is there, for such disposal, because witnesses are available along with the party himself.

(g) No police interrogation should be allowed into the offence committed by the juveniles. Police are generally accustomed to use certain methods of their own choice,
against criminals to investigate the fact. They use to adopt the same even against children. Such treatment is quite against the treatment suggested under the Act. Therefore separate agency must be appointed to interrogate and inquire into the matters of the delinquent juveniles. Again, it is also suggested that the police while producing children before the Court should not follow any coercive methods and other practices like bringing out children with handcuffs, collecting photographs and finger prints of the juveniles and surveillance after their release. Because, these steps are necessary in case of habitual culprits but not for juveniles. Besides this the police persons must be in mufti and they should not wear uniform while taking out children to Court. It appears to the public that the delinquent juveniles are nothing but young prisoners and the very appearance of police in uniform itself creates fear and humiliation in the minds of children. Preferably, a separate authority under the designation of Juvenile Welfare Officer will have to be appointed in such number as are adequate to function in big and smaller towns, cities and rural areas whose task would be to receive information from the members of the general public confidentially. Such officers may initiate investigation with the help of plain clothed staff who may be authorized to take the help of police only when this becomes utmost necessary. 

(h) At present in remand homes delinquent juveniles are provided with uniform (blue or green convict cloth) just as in the case of adult criminal in jails. Such dress works as a special brand to identify them as a separate section from other children. This may cause pain in the tender minds.
Thus it is suggested that such practice should be prohibited and juveniles should be allowed to wear ordinary dress as they like.

(i) Even though full-time and part-time medical officers are provided to the juvenile homes, they are not paying proper attention to cater to the needs of the boys on the plea that the required drugs are not available and thereby the boys are being sent to the Headquarters hospitals for treatment. Therefore, stock of sufficient drugs should be provided in the juvenile homes or observation home. It is also suggested that the attitude of the medical officers must be changed of sending the delinquent juveniles or non-delinquent juveniles frequently to the outside hospitals even for small ailments.

(j) Proper instructions must be issued to the supervisors (Wardens) and other ministerial staff who are dealing with juveniles in observation homes or juvenile homes not to use foul and filthy language in their day-to-day activities. Because continuous use of such language cannot help to reform the child and moreover it may have a negative impact on them by developing inferiority feelings in them.

(k) Institutions set up for both the categories of children will have to be adequate in number and adequately equipped and staffed to handle the delicate job assigned to them and the present socio-economic conditions in several States in India do not permit setting up of such institutions. It is heartening to note that juvenile institutions envisaged under the Act like Observation homes, Special homes, Juvenile homes, and After-care organizations
can be established privately and the State Government has the power to certify or recognise such institutions and oversee their functioning but it is humbly submitted that in the absence of incentives from the concerned Governments, there will be reluctance on the part of financially well-off people to establish such institutions. It is, therefore, suggested that the package of incentives for such individuals by way of various tax concessions, contributions or subsidies from the State Government and facilities in the matter of acquisition of land, electric connection and water supply etc will need to be stated in the Act itself so that no one really desirous of helping in the matter will have to run from pillar to post to find out the details of such incentives.

(1) It is really unfortunate that the Act sets a limit to the period of detention or to the age upto which children may be detained in institutional care. Thereafter, the Act is silent. It does not appear to have been appreciated that "the sudden and automatic withdrawal of protection at any stage is draught with grave consequences to the future of the child on whom so much effort and money have been expanded over a considerable period. A little care with supervision and follow-up, provision of additional facilities is necessary."8 It would be better if a percentage of apprenticeships and employments are placed at the disposal of the Juvenile Courts or Fit Persons Institutions for children in order that they may readily place deserving cases.

(2) The absence of stabilized After Care Societies or

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Hostels is another very serious drawback. When delinquent juveniles are unable to obtain employment and encounter fear and distrust after release, they suffer much and drift back to crime. Each reformatory, therefore, should approach the employment authorities prior to his release from the institution and prepare his or her case for job.

15.4.1. The States have to be more honest about their obligations to the delinquent juveniles. Children misbehave because, perhaps, the society and the elders have, may be, behaved worse. Society is becoming increasingly inhospitable to its weak. By ignoring the non-custodial alternatives prescribed by law and exposing the delinquent juvenile to the trauma of custodial cruelty, the State and the society run the serious risk of losing the child to the criminal clan. This is no more a matter of concession to the child but its constitutional and statutory right.

15.1.5. It is not enough to make good legislation; it should be honestly, strictly and scrupulously enforced without fear or favour, and then alone its fruits will be enjoyed by those for whom it is intended, and in this enforcement and administration, each citizen has directly or indirectly a part to play, in the interests of the individuals concerned towards the welfare of the society, and the progress and prosperity of our sacred motherland. Co-operation among the teachers, parents, and social organizations and between teachers and parents and co-ordinated work among individuals are the essential for the success of the programme. Thus it is suggested that -

(a) Children should be kept away from unnecessary quarrels, misunderstandings, social prejudices, superstitions, political pollutions and other evil factors
which will weaken their philosophical, psychological and mental make up.

(b) Children’s growth will depend to a great extent on the accumulated experience and rich knowledge of their parents. Parents should conquer the minds of their children to suppress the depressing emotions and other human attitudes such as hypocrisy, hate, selfishness etc.,

(c) Parents should have a good degree of patience to teach their children in a frank and free atmosphere and to watch their mental growth with an invigilant eye and observant mind and to correct them wherever and whenever they go wrong. "The more patience you give your children, the more disciplined their manners will be. Then alone they will be able to recognise and distinguish between the good and the bad, the useful and the harmful in their life.”

(d) Good children should not be mixed with the bad but bad should be corrected and then mixed with the good children. This is the responsibility of every citizen and the entire society will be benefited by this.

(e) Interesting lessons dealing with the good social qualities of life should be incorporated in the schools curricula, all prepared and presented in such a way as can be adopted for practical life.

(f) Politically motivated organisations should be removed from the educational field and organisations which will create and stabilise social responsibilities should be introduced in all schools and colleges.

(g) Another vital factor to be borne in mind by the parents if they want to mould their children, “the

\[\text{\textsuperscript{16} Ibid, p177.}\]
intelligent way is to conform to the small family norm.\textsuperscript{1} If any one has only two children he can look after them with more care and make them brilliant in life, and if he has more than two he will not be able to take care of all and consequently all of them may not be useful citizens. The more children a person will produce, the more economic and social problems he will face and consequently peace and happiness in life will be very limited and insignificant. On the contrary, the less the number of children the more intelligent they will be.

15.1.8. Therefore, at the end of 20th century, no one should forget that world has progressed quite a lot, not only in material comforts but also in its thought pattern. Preventive programme in crowded areas, leisure time activities, libraries and gymnasiums, school social services and family life education to parents are some of the measures which could be suggested.

According to Mrs. Kaldate, "unless social problems remain within control, social life will not be secured. More money should be spent for buildings, specialized staff, schools, games and other leisure-time materials in order to cover hundreds of wandering and run-away children, drop-outs. The problem of juvenile delinquents should be taken over on war-footing."\textsuperscript{12} The missing, vagrant, run away children in metropolitan cities are posing a serious problem which has to be tackled not by catching these boys and giving temporary shelter in institutions but by providing health and education, food and clothes, recreation and occupation at their homes. Considering this aspect, social security law should be introduced in our country. Social security

\textsuperscript{11} Ibid, pp171-172.
\textsuperscript{12} S.V. Kaldate, Society, Delinquent and Juvenile Court, Ajanta Publications, Delhi. (1982), p133.
law concerns several categories of people, men, women and children when they claim different types of benefits. In conclusion, the law enforcing authorities, parents, teachers, public men, social workers and the like, will play a prominent role in weaning away children — Juveniles, from criminal habits and acts. Saving a child from delinquency is saving a family from ruination. Juveniles are the future hope of India. Give the Juveniles a ‘better to-morrow.’