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5.1 JUVENILE JUSTICE IN THE PAST AND PRESENT

Delinquency among the youth has aroused public concern on account of the value that has been placed on children in our society. The constant changes in the law of different countries and states reflect the concern among the public. An awakening now exists among the people to protect and treat the children who are in need of care.

The interacting psychological and social factors that lead to delinquency among the children and youth have been proved by research. Of late, there have been various approaches in the treatment of young offenders, unlike in the past. The legal procedures connected with trial by the court also have changed. In the ancient period, crime was considered to be a grave offence against mankind. Besides, it was also taken to be a sin in the eyes of God. A boy or a girl who committed an offence was severely punished. He or she would undergo harsh punishment publicly and then be sentenced to death. For instance, a child of nine who broke a glass or stole two pennies worth of paint was condemned to
death. The young offenders were treated in the same manner as the adult offenders. During the arrest, detention and trial period, these children and youth were subjected to all the criminal procedure codes. It is often said that during the early times in England, children caught for setting fire were hanged and condemned to death like the adults. Among all the prisons in England, the Newgate Prison was one of the worst. Thomas Buxton had conducted various investigations on the increase in juvenile delinquency in England. His publications led to many facts — social, cultural and economic, that contributed to high rate of delinquency within a new society.

During the early period, prisoners were sent to the Hill Bank Penitentiary and taught various trades to enable them to have a livelihood of their own. Buxton recalled about a particular boy whom he had known at Newgate. He was labeled as having had the worst character and was well known for his violence, wickedness and cruelty. In prison, he was placed along with other evil and wicked adults. When he was about to be

released from prison he was questioned about his future course of action, but he seemed to be totally ignorant. After staying in the penitentiary for three months, he replied that he had learnt to be a cobbler and thus could lead an honest life. The industrious nature of this boy can be found in many others who need guidance to take a good start in life.

The early part of the nineteenth century witnessed several crude and harsh punishments that were meted out to juvenile delinquents in England, Germany and France. There were cases in which the new society was interested. It included a boy who at the age of thirteen years had the sentence of death passed on him twice and another boy who at the age of ten years was undergoing a sentence of seven years imprisonment for picking pockets. As a result of such severe punishments, public conscience was stirred in different countries. They tried to seek new measures to curb delinquency and treat the young offenders and adults who indulged in crimes. Hence in 1818, a Reformatory for juvenile delinquents was emphasized in these institutions. Corporal and

vocational skills were imparted to the boys in these reformatories. Music was also taught to them. Instructions in various fields were made as personal and simple for the convenience and easy understanding of young boys.

In England and U.S.A., the Reformatories and Industrial schools served as substitutes for prisons. Delinquents in these Reformatories and Industrial schools were imparted vocational training at the discretion of their authorities. These delinquents had no liberty to choose their course. In the U.S.A the system of treatment was slightly unique.

The first Probation Law was passed in Massachusetts in the year, 1878. According to this Law, a provision for a Probation Officer existed. This Officer had the task of supervising the defendants released for a definite period on the basis of good behaviour. Dr. Wines, in 1878, had declared 'we make animals out of children by treating them as if they are criminals. That ought to be stopped. What we should have in our system of criminal jurisprudence is an entirely separate system of courts, in large cities, for children who commit
offences which would be criminal in adults. In 1892, there were separate trials and records for children who indulge in delinquent acts, below the age of sixteen years in New York. In Chicago, during the early 1860's, the first juvenile court was set up. The Mayor was in charge of the appointment of a Commissioner. The Commissioner was given the responsibility to hear and determine petty cases of boys between the age groups of six to seventeen years. He could even place these young offenders under probationary supervision or send them to Reformatories. Later, in 1867, this function was passed on to regular judges.

In England attempts were made to understand the social problems that led to juvenile misconduct. There was relaxation of trial procedures. Juvenile delinquents received differential treatment from the adult offenders. Later, in Birmingham, there were some magistrates who began the practice of dealing with the cases of young delinquents at different timings from the court sittings to avoid being associated with adult offenders awaiting their trial.

Ibid., p.50.
5.2. THE EVOLUTION OF JUVENILE COURTS

The evolution of the juvenile court can be traced to the late 1890s in the U.S.A. The first Juvenile Court in the world was set up in Illinois in 1899. The establishment of the juvenile court led to the formation of similar social institutions in different parts of the world. There was significant progress of such institutions in England during the nineteenth century. It was only during the twentieth century that the juvenile court system was legally introduced in England. The Children's Act of 1908 legalized the practice of separate trials for juveniles through the provision of juvenile courts. These were empowered to deal with all juveniles under the age of sixteen. They convened sessions at different places from other court sittings.

In the U.S.A., the foundations of institutional segregation, probation, supervision and separate hearings at the judicial level were found to be an admixture of the juvenile court theme. Through the institution of the juvenile court, it provided the basis for independent handling of cases under a distinct philosophy and method. In the early years, there were no separate courts or agencies to deal with young offenders. Yet, juvenile
delinquents were not given the harsh treatment as the adult criminals. The corrective measures meted out to the young offenders differed from the punishment that was provided for adults. It was the Law of Illinois that formed the stronghold and basic pattern for other states and countries to follow. This law led to the rapid development of similar courts in other countries. In 1917 all the states, excepting Maine and Wyoming, had juvenile court laws. It was in 1945 that Wyoming finally set up a juvenile court after the Federal Government passed a Juvenile Court Act of 1938.

The juvenile court system in England has been the same from its inception to the present day. The two Governmental Committees of enquiry, that is, the Committee for the Treatment of young Offenders, 1927, and the Committee for the Children and Young Persons, 1960, had further reaffirmed that the juvenile court was the suitable agency to deal with juvenile delinquents.

According to the Indian Penal Code (Act XLV of 1860) in India, all children below the age of seven years were exempted from all criminal responsibilities. Children, between the age group of seven to twelve were also
exempted from criminal charge as they were immature and unable to judge the nature and consequence of their conduct. The Code of Criminal Procedure (Act V of 1898) under section 362 (i) empowered a court, trying under twenty-one years of age, for an offence not punishable with death and imprisonment for life, to release him on a bond of good conduct under certain circumstances. The provisions of the Indian Code of Criminal Procedure, 1898, in the context of the provisions of the Indian Constitution, govern the powers, functions and duties of the police in India within well-defined limits. Whenever a child was arrested by the police under the provisions of the Children's Act, it was required to be produced before the juvenile court functioning with the area under the provisions of the Children's Act as well as of Articles 21 and 22 of the Constitution within 24 hours of his apprehension.

Article 39 of the Constitution relates to the Directive Principles of state Policy. According to this Article, the state should safeguard childhood and youth against exploitation and protect them against moral and material abandonment. In accordance with these principles, there are about nine States in India that
have enacted children's Acts. Thus the brief review of the history of the emergence and development of the juvenile courts in the U.S.A., England and India helps one to understand that all methods pertaining to the treatment of juvenile delinquents in future will be based on the juvenile court system.

5.3 JUVENILE JUSTICE PROCESS

During the late nineteenth century, a specialised court was set up that would deal with cases of juvenile delinquency and neglect or abuse of children and orphans. The concept of the juvenile court or family court became popular and spread in all parts of the world.

A child is labeled as a delinquent or a status offender by the juvenile court. Apart from the court, there are other organisations that play a role in placing a child under probation or sending him to a reform school. These network of organisations and their decision-making powers constitute what is termed as the juvenile justice process.

The juvenile justice process commences when a complaint is lodged by the police, citizens, officials of
schools, welfare departments, hospitals or parents. In several cases, it is the police officers who arrest the child or send away the child after warning him or by use of a reprimand instead of a formal complaint. The decision of the police regarding any young offender plays a great part as it is the initial detention decision. According to this decision, the child may be detained for a short period, that is, overnight, or for a longer period.

After the initial decisions are made by the police, the next decisions are taken by the juvenile court intake staff which usually comprises of probation officers. If the cases are recommended for further court action, they are held for an intake hearing. The others are diverted or dropped form the entire process. After the intake, a further decision may be taken whether or not to detain the youth kept pending for a court hearing. After the adjudication or the court hearing, based on the facts of the case, the child may be judged to be delinquent or vagrant or status offender or the case may be dropped.

The ultimate stage in the juvenile justice process involves a decision on the disposition of the cases that
have been found to be delinquent or in need for care. It is the court again that decides the future of the child. The child may be placed on probation, in an institution or released. Finally, after probation or when the sentence in an institution has been completed, the child will be released. This decision may be taken by a judge or the authorities concerned or the correctional institution.

Thus the juvenile justice process is complex as it involves various institutions like the police, probation officers, the juvenile court and correctional institutions. At every stage of decision-making, the child may be diverted or sent deeper into it. Through these important decisions, the number of children passing into subsequent stages of the process is determined. In this way, the decision network of the juvenile justice process serves as a screen that restricts some children and permits others to pass through.

The actions of component part of the entire juvenile justice process directly affects its operation. An

illustration of the juvenile justice is presented in appendix.

The decisions during the sessions of the juvenile court are of great significance as the future of the delinquent child is determined. It is therefore, essential to probe into the emergence of the juvenile court and understand its role in decision-making.

5.3.1 THE ROLE OF POLICE

Apart from institutions and agencies that refer children who are delinquent, neglected and abused to the juvenile court, the final avenue for referral is the police. Police Officers are most often, informed by neighbours who have witnessed offences or by people who have been victims of delinquent acts. In other situations, the police themselves detect children in the act of committing an offence or find children who are suspected runaways or truants.

Every delinquent act committed by juveniles may not be informed to the police. Hence police must rely on the co-operation of the public to obtain information about offenders. There is, however, much evidence that victims
do not always report incidents as and when they occur. Victimization surveys have shown that the police are informed of only a fraction of all offences committed. Reasons for not reporting offences range from a fear of being 'involved' to a desire to protect the child from the offenders, and many feel that nothing would be accomplished by reporting the situation.

When an offence has been detected by the police or notified by a complaint, a discretionary judgement has to be made. Based on the decision by the police, the juvenile may either be diverted out of the juvenile justice process or taken into custody. In some cases, the child may be referred to community or voluntary official arrest, the possibility of detention and a court appearance.

There are several factors that should be taken into consideration in determining whether to handle a juvenile informally or formally. They are:

(a) the severity of the crime committed

(b) the number of prior contacts with the juvenile justice system
(c) the social status of the child
(d) the age of the child
(e) the behaviour that the child displays to the police officer.

By traditional outlook and by training, the police are not adequately equipped to deal with children who require delicate cautious handling and special treatment. This has been realised in India. Efforts are now being made to give orientation to the police at various levels so that they might discharge their responsibilities to children most efficiently. There are some cities in which special units of the police are constituted. In some units even women police are found. Dr. Walter Reckless wrote in the ‘Handbook of practical suggestions for the Treatment of Adult Juvenile Offenders’ which he prepared at the request of the Government of India, that the methods employed by the police in dealing with juveniles in trouble must have new goals before them. It is found that the police officers all over the country
are now aware of their department in relation to the handling of these juvenile delinquents. In the Police Department, the need for regular training programmes for their personnel has been emphasised. Much change, however, will have to be effected. Much reorganisation of the police services would have to be undertaken and many training programmes will have to be successfully organised for the police personnel before their needs in this sphere can be met adequately by them. Methods of investigation and interrogation and procedures at various levels will also have to be modified to suit the new awareness.

5.3.2. ROLE OF PRESIDING JUDGE

The presiding judge, usually a lawyer, has a great role at the adjudicating stage of a juvenile case. He has to preside over the hearing and insure that the proceedings are in accordance with the law. His interest lies in the sanctity of the court rather than the interests of the child. Often, even though the child is

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guilty, his parents and guardians exhibit non co-operative attitude towards the court. It is at this juncture, that the judge must take a firm stand in his decisions and at the same time ensure that the child is treated properly.

The judge may either dismiss the case, remand the child to juvenile court or adudge the juvenile to be delinquent.

In many cases the judge, by his decision may be antagonistic to the child. It is said that the judge cannot be antagonistic to the welfare of the child but he can be antagonistic in his decision, at least, from the point of view of the child, especially, when the girls are to be compelled to be confined to institutions. Often, some girls are led away by so-called 'gentleman' who are pimps in reality. They promise that they would marry these girls and look after them; and they never keep their promise. These girls feel tempted by the treatment given initially from these men and are unaware of their intentions. They doubt the

decision of the magistrate to send these girls to shelter homes or correctional institutions.

The duration of time involved in a case depends on the attitudes of the judge and his approach to the delinquent. In many cases, the judge may talk only to the parents of the accused or in the presence of the child.

A juvenile who has been taken into custody may be detained or released and handed over to parents or guardians. In both of these cases, a preliminary investigation is conducted by members of the probation department. This practice is known as the intake interview. During this stage, sufficient information about the accused is obtained to assist the future course of court proceedings.

5.3.2.1. HEARING OF THE CASE

The procedure for the hearing of a case involves the plea of the child, presentation of evidence by the prosecution and by the defence, cross-examination of witness and the findings of the judge. In several cases,
the hearings are brief as most defendants confess to the charges against them.

Parents or guardians may encourage their children to admit their fault at the adjudicatory hearing. If a child admits that it has committed a delinquent act, then a hearing is generally not held. The case then proceeds directly to the disposal stage. Most cases in juvenile courts are uncontested and a full hearing is not conducted.

There are a number of factors that influence the disposal of the case. The judges are free to make their own choice whether to send these juveniles to institutions under the state government or private agencies.

The severity of disposal is of great significance. The degree of intervention in the life of the accused may be minimal, as in community supervision, or it may be extensive, as in incarceration. Several researchers have noted that racial and socio-economic status biases

influence the severity of disposal choices; for example black youngsters and the poor have been found to receive harsher treatment, regardless of prior record on the severity of the offence. The home background, sex and age of the offender have also been found to be related to the disposition. In some courts females are more incarcerated than in other courts. Other influential variables in disposal decision making are the prior decisions by the juvenile court personnel, severity of offence, prior contacts and coming from a broken home. Apart from the staff of the juvenile court, the defence counsel and the prosecutor (if present) also present disposal proposals to the court.

There is evidence that the Probation Officer is the most influential person at this stage. Attorneys tend to rely on the expertise of probation personnel in making suggestions about the treatment of a particular juvenile.


5.3.2.2 METHODS OF DISPOSAL

A variety of disposal alternatives exists to provide juveniles with effective correctional treatment.

Informal handling involves disposal without disposal hearing and often leads to informal probation with the consent of the child and parents or guardians.

Probation is the most common method of disposal for a specific period.

A juvenile may also be placed in a foster home/rescue home/aftercare home. These homes are approved by the state, the court or local agencies.

The court can also use its discretion in imposing fines and restitution to the youth.

Various types of private institutions and public institutions accept the child that has been sent by the court.

In some cases, the case of a juvenile child may be dismissed without a formally mandated treatment of prescription.
5.3.2.3 DETECTION OF THE DELINQUENT

A controversy lies about the detention of a child in a Remand home. Some are of the opinion that a child once apprehended is safe in a Remand home as it protects him from the unhealthy situations in which he/she committed offence. By staying in the home, the child provides an opportunity for the Probation Officer to clearly investigate his/her case. Others feel that the presence of an accused child in the home is not safe. If the delinquent child stays with other delinquent children the delinquent act committed may be known to the others. This exposure of the act may hurt the ego of the child. It may also feel homesick. It is for these reasons that lawyers request the court to release the child on bail.

The misconception about the remand Home must be removed. It must be viewed as a school with effective disciplinary measures and educational programmes. Though the children come into contact with the other delinquents, they are prevented from forming a subculture by keeping them engaged in various activities of work.
5.3.2.4 JURISDICTION AND PROCEDURE OF JUVENILE COURT

The procedure of hearing is usually informal both in the set-up of the court room and the manner of the court personnel. Whether the lawyer can defend the child or not is left to the discretion of the court by the Children’s Act. Wide publicity is not made about the deed committed by the child. The parents and relatives of the child are invited to be present. The police can be dressed in plain civilian clothes. The judge plays a great role in obtaining information about the accused. Injustice can be avoided if the judges are specialised in handling cases. Hearing evidence and taking decisions are a joint responsibility of the court, the probation officer and the police prosecutor. A homely atmosphere exists in the court and the case is opened by the police prosecutor. If the court finds the juvenile guilty of an offence, it obtains a report about the child’s character, family history and circumstantial evidence from the probation officer. Based on the report, the court may release a child on admonition by securing a bond from its parents or guardian or may send to a correctional institution for rehabilitation.
Thus the juvenile court functions as a small decision making group and comprises the judge, the probation officer, the police, the parents, the lawyer and the child. Each of these members performs his/her duties in accordance with the norms of the court. Since the goals of all are common, that is the welfare of the child, they work with a united effort to check or prevent delinquency.

The jurisdiction and procedure of juvenile court led to various interpretations in several countries. Warren Dunham discussed these views and regarded them as a conflict between two images - the legal and social agency image. He regarded this conflict as an ideological battle over juvenile court. The controversy about the jurisdiction and procedure of the juvenile court has been very important in understanding the theories of the causes of delinquency and the effective ways of correcting and transforming juvenile delinquents to live harmoniously in society.

5.3.2.5. Social and Legal Image

The legal image projects that the fear of punishment alone prevents a child from misbehaviour for some time. If the court has no legal security, which is sanctioned by law, then these juveniles will not value the hearings of such courts. The juvenile court is provided with legal sanctions as it is a branch of the judiciary. A specialized agency of the police exists that conducts investigations to juvenile misconduct. As a result of these strict measures adopted by the police and juvenile court, the child is made to realize the offence committed and then learns to respect law. In England, the juvenile court always remained as a criminal court. Yet there has been minor changes in the attitude towards the treatment of young offenders. Occasionally modification in the juvenile court system prevailed to provide more assistance to improve them. It was later felt that punishment should be reduced. Much opposition to the idea of providing extended control over the life of an individual to any other type of court existed in England. The question is posed as to whether it is wise to bring children before the bodies which are not criminal courts.
5.3.3. JUVENILE COURTS ABROAD

5.3.3.1. Juvenile courts in England

The English juvenile courts excel in criminal jurisprudence and an additional competence in non-criminal matters. The trial of offences forms the uniqueness of these courts. With regard to actual trial, a child is not denied rights that belongs to an adult. It is this principle of jurisdiction that had led to the confirmatory comment in official reports since it first became fixed as part of juvenile court law in the Children's Act, 1908. The Moloney Committee of 1927 on the treatment of young offenders, had advocated two reasons for supporting the criminal jurisdiction of the juvenile court. In the first place, a young person who has been convicted of delinquency must have the opportunity of meeting charges against him. The juvenile court should always serve as a court of justice. Secondly, the young offender must be made aware of the serious offence he had committed. In this way, these children will respect law and try to correct themselves.

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Thus, the Committee stressed that criminal procedure is the best method of handling juveniles who appear in the court as juveniles. The stance that criminal justice should consider the community as its priority was also emphasised in the Ingleby Committee for children and young persons, in 1960.

5.3.3.2. Juvenile Court in U.S.A.

The juvenile court in the U.S.A. is a court of Chancery. In this case, it is the States that take responsibility over the duties which parents are unable or unwilling to fulfill. The court represents the concrete expression of the State's obligation to a child. It is recognised that the child in court is not the result of his own making. Children in the U.S.A. have a right to be protected by the State and not punished. Hence the courts in the U.S.A. have greater powers when compared to the English or any other courts. The American courts exercise control over the children for a longer period of time. In recent times, the juvenile courts have adopted and modified the common-law rules on the basis of the age of responsibility. Apart from these rules, some of the characteristics of early equity with its stress upon the
protection of the child, administrative measures of assistance, informality and flexibility of procedures have also been included. The procedural informalities, the control over the liberty of the defendant and the potential influence on his personality through court handling all these are better designed to help juvenile delinquents than persons ordinarily assigned to the administrative agency or to courts of equity. In consideration with these aspects, the juvenile courts and the criminal courts bear a close semblance to one another. Their history and method of operation is also similar.

5.3.3.3. Juvenile Courts in Sweden

Sweden has a different approach to the treatment of young offenders. The schools in Sweden provide not only preventive services but also help in the reformation and rehabilitation of these children. Though the juvenile court performs its legal function, social change is brought by the schools. The child welfare councils do not play a prominent role in Sweden as the court and the schools. Robert C. Taber has said that the Scandinavian Child Welfare Councils are designed to keep children out
of official children's courts and are performing valuable function in discouraging unnecessary arrests and court appearances.

5.3.4. JUVENILE COURTS IN INDIA

The British model of juvenile courts has been adopted in India. They are criminal courts or courts of guardianship. Unlike in the case of the Family Courts in Japan, these are not solely social courts. The juvenile courts form an integral part of the judicial hierarchy based on their structure. The higher adult courts receive the appeals that are forwarded from the juvenile courts. There are certain adult courts under the Children's Acts that can deal with cases of young offenders either in original hearing or in appeal.

Juvenile courts in India remain both legal and social in nature. They are said to be social as they investigate into the social background of the child. Based on the family history, decisions are taken by the court. The juvenile court thus blends the services of

the probation officers and the reception homes. It is not considered to be a punitive institution but serves as an agency to work for the rehabilitation of the child, which is in need for protection. The juvenile court thus functions as a guardian or well-wisher of a child. It is said that the more freely and informally the children are allowed to talk and the less are restrained by rules of procedure that are incomprehensible to them, the more likely the truth be reached. After considering both legal and social aspects, the nature of the juvenile court can be differentiated from an adult criminal court and the Child Welfare Council. The Juvenile court recognises the fact that the law is incompetent and inadequate in the treatment of delinquency and crime. Its approach to the problem is scientific and sympathetic. Every child's case is given its individual importance after taking into account the social and legal aspects.

5.3.5 **Juvenile Courts and Social Welfare Agencies**

The role of courts in co-ordinating and directing the social welfare agencies for the treatment and

14 Ibid., p.109.
rehabilitation of young offenders is one of its most important function. The judicial system places great significance in defining the role of the juvenile courts in the control of crime and delinquency. The judicial system employs methods and undertakes many functions as an instrument of social control. It has the power to impose sanction against deviance. The methods of punishment also depends on the presence of its power. The judiciary given statements on the law-enforcement process obtain the ultimate effectiveness of sanction as the primary instrument of social control.

It has been found that crime or delinquency is effectively controlled by the legal system. It acts better in upholding values and is an arbiter of grievance than as an instrument of punishment.

The welfare and care of children have been of prime concern, but throughout the history of the court other goals have been projected and supported. Examples like protection of the community from dangerous offenders and deterrence of future offences have also been considered as functions of the juvenile court. The original juvenile court was criticised based on the belief that
the moral force of the law weakened by the leniency of the juvenile justice system.

5.3.6 JUVENILE COURTS AND THE NEW SOCIAL APPROACH

There has been a need to coordinate the existing agencies and involve the community. This new approach has several dimensions. Efforts are being made to make the judicial system more accessible to the masses. The community must be educated to help the offender to become a normal person. Everyone, that is, the young offender, his family and the community must be taught to overcome all barriers and accept the youngster in the society. A great emphasis must be on creating a relationship between the judicial system and members of the community. This link will bring about support and participation in the task of the court. The juvenile court cannot be regarded as a separate institution but as a part of the system of justice in relation to and supported by the institution and members of the entire community.

The welfare of every child appearing before the court must be regarded while modifying and legal procedures. The introduction of welfare principles and
its adoption in legalisation marked an important step on the road to improvement in relation to the treatment of children appearing before the juvenile Courts.

The magistrates of juvenile court were often confused about their functions. They were not sure whether they should only be judges or take on duties of a child therapist as well. It was then felt that both the functions may be combined. The magistrate may contribute with a clearer conscience on the type of treatment which the welfare need of the child calls for. Reports from the basic source of information for the magistrate who prescribes treatment accordingly. In the absence of such reports, the child is placed on probation to have an insight into his needs. These decisions are given better shape after reports from parents, doctors, school teaches neighbours, friends and sympathisers are obtained.


The juvenile court thus provides a legal and social environment for the child. Through the informal physical surrounding of the court it is expected that the child would reveal the actual reasons that led him to commit the offence. The welfare of the child is obtained through social investigation by the court and a common decision is arrived at. Thus the juvenile court functions as a group interacting with many personalities.

It is therefore, necessary, to know the ingredients of the 'Interaction Theory' before its application to the juvenile court.

5.3.7 ROLE PLAYERS INTERACTION AND INTEGRATION

When a child is brought to the court there are about five or six interacting members—the magistrate, the probation officer, the police, the accused, the lawyer and the parents or guardians who interact with one another. Actions of all should lead to integrity of the group. 'Interaction, if perfect, ultimately leads to

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The accused child is viewed from different angles by the police, lawyer and the parents according to their own values. In several instances their roles are determined in relation to the larger social system. Yet, their actions are determined by their own value judgements. When the role and individual value judgement come into conflict with one another, the integrity of their actions are adversely affected.

It is a condition of the stability of social systems that there should be an integration of value standards of the component members so that they constitute a 'common value system'.

Thus in a group, the function is to serve and reinforce the common value system of its members by maintaining the status of each of the members. According to Parson's analysis every social system will have a paramount value pattern. He stressed the values which

emphasize a paramount system goal as the focus of valuation and the values which emphasize the integration of the system and the relations of solidarity of the units with each other.

In the first case, the focus is on the need for authority to co-ordinate the contributions of the various units of the system towards the goal. Authority will tend to be a function resulting from the urgency of getting things done.

The system integration lays a lesser stress on authority to prevent units from disturbing the integration of the system, than on the need to keep them in line. The juvenile court falls under this category. In reality, every individual is affiliated to one or more groups. The individual’s status may be determined on these roles. Thus a policeman in the court has a definite role which determines his status, apart from his position in the hierarchy to which he belongs.

20 Ibid., p.93.
21 Ibid., p.100.
Similarly the status of the lawyer may be based on his seniority, legal reputation and social standing. Parents of delinquents also belong to various strata in society. Even the juvenile's status is determined by his family, school, friends or place that he belongs to.

The functioning of the juvenile court is based on the interaction between individuals. This interaction system includes the ideas of personality, social system and culture. Personality is treated as a totality of series of actions at a given time. In many cases, the lawyer is expected to produce genuine evidence which may or may not be favourable to the child, but will be beneficial to the hearing in the court. Sometimes the lawyer may be motivated by his personal interests due to monetary gain and hence may attempt to get the child released. In other cases, he may try to help the child or his guardian and thus his attitude and actions may change.

Inspite of these changes in the attitude and temperament of the lawyer or any other person, associated with the court, there are various safeguards to prevent
the impact of personal influence. All the personalities - the judges, the lawyers, the police and the probation officers are expected to know the law, the implications of violations of law, the possibilities of various factors leading to delinquency or crime and the rehabilitative measures for the child. In other words, everyone in the court should play his/her role and discharge his/her function effectively.

5.3.8 DUAL FUNCTIONS OF JUVENILE COURTS

There are two main functions that a juvenile court must execute as a small decision making group. First, is the cognitive task of arriving at a common definition of the situation. Next is the evaluation task of arriving at common value judgements needed for a joint decision. Finally, the court must arrive at a solution or joint decision.

The first task deals with the child and the chargesheet that are produced before the magistrate. A number of factors such as the nature of offence, nature

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of the child, the confession or non-confession of the
guilt, the history and environmental factors must be
considered by the magistrate, in order to understand the
case. The judges must be able to convince the child or
parents to tell the truth about the delinquent act. If
the child admits, then the court has to take a decision
after understanding the factors that provoked the child
to misbehave, the parent-child relationship and other
reasons.

In the case of the second task, after understanding
the situation, the court takes further steps of parole or
remand or social investigation, hearing and adjudication.
After the particulars of the offence are explained by the
magistrate, the child is asked to explain why he should
not be declared guilty. If the child admits that he is
guilty of the deed, the magistrate must convince and
build confidence in the child that he will not be
punished nor will any stigma be attached to him. Then
the attitude and misbehaviour of the child begins to
change. If the magistrate is unable to establish a good
rapport, then the child will not admit his guilt. Hence
every judge has four important duties to follow. First,
he has to act sometimes as a parent to build confidence in the child. Once the child trusts the judge, then he understands his mistake and tries to correct himself. The main task of the judge is to explain the consequences of his action and the mishappenings in his future if he continues doing wrong. Next, the judge must also act as a counselor. After explaining the mistakes that the child committed, the judge must suggest solutions to the child, parents and relatives. Finally, he must act as an arbitrator to solve the differences between the child, his relatives or community.

A case may be adjourned, whenever a social investigation is necessary. The best device to ensure attendance of the child at the court is through remand. It also protects the community from serious offenders and psychopaths by not allowing the delinquent to go back to his parents or relatives. An investigation is made to understand the child’s history, that is, family, neighbourhood, school and work conditions. It is the probation officer who visits the accused child’s family, school and place of recreation and collects information from these sources. He has to produce a report in written form to the court about the circumstances of the
offence, crime record and social history of the defendant. Necessary physical, mental and psychiatric examination of the child through medical and psychiatric experts is obtained, whenever required by the court. The role of the probation officer is vital. He must be trained, experienced and always have an open and sympathetic approach. The report about the child that is prepared by the probation officer is a great asset in aiding the court to take good decisions.

There are several cases of children who run away from their home and wander without aim. Such children when caught by the police do not give their correct addresses, names or reasons of crime. Further steps are taken by the probation officer to obtain information from these children. When left to themselves, children open out and reveal their actual history and situations that led to the offence that they have committed.

The right to bail is also prevalent in several Children's Court, though it is found to be an anachronistic survival of criminal court methods.
5.3.9 THE ROLE OF PROBATION OFFICER

Children could be incarcerated for long duration of time by the judge which would be terminated when an improvement in the child's attitude and behaviour was detected. For instance, if a delinquent child charged for uncontrollable behaviour exhibits a positive and constructive change in his behaviour, his period of time could be terminated. Thus the success of treatment would be used as the criterion for release. This indeterminate sentence structure was thought to enhance rehabilitation.

There were other forms of treatment used such as probation. It was the duty of the probation officer to assist and train parents in dealing with their children through supervision of the child in the community. The New York Probation Commission in an annual report, in 1908, described effective probation as follows:

The probation officers obtaining the best results enter into intimate friendly relations with their

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probationers and bring into play as many factors as possible, such as, for instance, securing employment for their probationers, readjusting family difficulties, securing medical treatment or charity if necessary, interesting helpful friends and relatives, getting the co-operation of churches, social settlements and various other organizations, encouraging probationers to start bank accounts, to keep better hours, to associate with better companions and so forth.

As for the rights of the child, procedural and due process provisions for adults were not applicable. The rights that concerned the juvenile courts were the child's right to shelter, protection, and proper guardianship. The power of the court could be justified by assuming that the welfare of the child was foremost in decision making and that efforts as treatment were effective.

The Central Children's Act, 1960, provides elaborate rules for matters related to the institutionalization of 

the neglected and the delinquent. It led to a process of probation which is an integral part of juvenile correction. The probation officer serves not only as an instrument of juvenile correction, but also the fulcrum on which rests the successful and effective functioning of the correctional system. The role of probation officer has been prescribed in the Act.

The probation officer is expected to inspect the special schools, children's homes, observation houses and other care organisations at regular intervals of time. He undertakes an inquiry into the antecedents and family history of the child accused of an offence. Case studies are compiled by the probation officer. These case studies are used as a base for further inquiries by the Child Welfare Board or the Children's Court. The probation officer makes periodical visits and meets the neglected and delinquent children whenever he deems fit. The necessary amount of supervision required for the observation and correction of the behaviour of his accused subjects is determined by him alone. After supervising and observing the behaviour of the children under his care, the probation officer submits reports periodically to the board or the court. He advises and
assists neglected and delinquent children. The probation officer acts as a counselor and his task is counseling. It is here that the probation officer is a case worker and has to mould the behaviour of his subjects. The probation officer examines at regular intervals whether the conditions on which the child has been released under the care of the guardian, the parent or a fit person, are being properly followed. This is an important function, because, if probation is a promise, it has to be objectively evaluated in the interest of juvenile correction. Besides these functions, duties and responsibilities, probation officers may be asked to perform other duties as may be prescribed in the interest of the correction of the neglected and delinquent children. A probation officer is a public servant within the meaning of sec. 21 of the Indian Penal Code. Hence he carries out all the duties of the public servant and is entitled to the privileges and protection that is available to a public servant.

5.3.10. The Role of Correctional Institutions

The establishment of well-conceived network of correctional institutions, both for boys and girls was
provided for by the British legal system. The Remand Home is the reception Centre for the custody of boys and girls below the age of seventeen, before their appearance in the court. They can also stay in a Remand Home between court appearances or while they are awaiting vacancies in approved schools or for a short detention as a punitive measure. Besides these homes, there are Remand Centres, where young persons between the ages of seventeen and twenty-one years are admitted. Otherwise they would be sent away to prison. The first correctional institution was established in Middlesex, in 1961. Later on, eight more centres covering the entire country were to be set up by the end of 1964. Various services are offered by the Remand system. They provide valuable opportunities for the study and observation of individual offenders. These results after observation are of great importance in chalking-out programmes of correction for juvenile delinquents.

Generally, after, the child passes through the Juvenile Court, it is sent to an approved school. This school offers a long-term treatment of schooling to the child. These schools are not punitive but educational,
vocational and correctional institutions. Children are
categorised based on the age on admission. For Boys,
there are three different Categories—Junior Schools for
Boys below the age of thirteen years on admission,
Intermediate Schools for those who are above thirteen but
below fifteen years of age; and Senior Schools for those
who are above fifteen but below seventeen years of age.
On the other hand, for Girls, there are only two
categories—Junior Schools for girls who, at the time of
admission, are below thirteen years of age and Senior
Schools for those above thirteen but below eighteen years
of age. Each of these schools serves a different
function. The Junior Schools are mainly concerned with
primary education. The intermediate boys schools provide
general education with technical education. The Senior
Schools for boys and girls offer industrial training in
specialised fields.

According to the Children’s Acts in India, there
were provisions for several correctional institutions.
Observation Homes or Remand Homes are centres for the
reception of children during the period and tendency of
the inquiry. The Observation Home or Remand Home
provides all facilities of accommodation, maintenance and
education during the child's stay. Neglected children are taken care of in the Children's Homes. These Homes provide accommodation, maintenance, education and development of character and training for protection against moral danger and exploitation. The delinquent obtains all the facilities that are offered in the Children's Home. They impart necessary training to the child which leads to his reformation. It is observed that in practice, all over the country, the Children's Homes and Special Schools include children of all categories and descriptions. The children and young persons who are released from Children's Homes or Special Schools are given help and assistance in the After-care organisations. These organisations enable the youth to resettle in communities and to lead honest, industrious and meaningful lives with a good purpose.

After dealing with the main agencies involved in correctional administration, the actual purpose of correctional administration will be effectively portrayed. In isolating management as opposed to the practice of corrections, the wide variations in organisational approaches from state to state are hopefully minimized in significance.
5.4 Management of Corrections

The management of corrections require general improvement in planning activities. The improvements in planning must lead to improvements in other managerial functions and finally to advancement in the field of correctional administration.

The administration and management of corrections, like the practice of corrections, occurs within the framework of a system of criminal justice. The criminal justice system includes many segments, all of which are strategically significant and interrelated. It has already been mentioned about the role of the police, courts, prosecution, defence, corrections and the law itself and the way in which they are interrelated in many crucial ways. These interrelations actually form the foundation of developing a managerial system of criminal justice. It has been found that criminal justice can function systematically only to the degree that each segment of the system takes into consideration all other segments. Some similarities (managerial) between corrections and other segments of criminal justice are found to exist.
One finds it difficult to recognize the systematic relationship between segments of criminal justice. For instance, police operations differ from personal operations, though the mission of both the police and prison is to control crime. There are particular goals and objectives of the segments of criminal justice which may vary. But there is no way, except the fundamental and systematic relationship that does exist between all organised efforts to cope with their crime and delinquency. The criminal justice system is one of the several varied operations, but all these operations form interrelationships.

Fragmentation from one place to another or from one jurisdiction to another in the criminal justice system is found to be prevalent. It is the fragmentation that occurs between different systems that may be caused by several different factors. This fragmentation leads to an effective criminal justice system. For example, when police operate without regard to the prosecution or when courts show indifference to corrections, the system tends to operate in an ineffective manner.
Correctional administration poses a number of doubts and questions regarding the systematic and rational interrelationships of its varied sub-systems. It is for the purpose of convenience that the Government special home for Girls and the Government special home for boys is considered to be a sub-system within the broad framework of the Vigilance Service in the State of Tamil Nadu.

The measures of correction in most of the sub-systems were not evolved rationally by devising evaluation and modification of its programme according to their interrelationships. Instead, the field has developed on the basis of public reaction to inhuman, treatment of children and the great efforts to several humanitarians for better treatment of the inmates in the correctional institutions. Lack of systematic information due to the fact that politics has a great impact on the process of corrections in many of the correctional institutions is often found to be existing. Correctional programmes have been devised not on the basis of effectiveness, but rather on the basis of who has the inside tract with this or that legislator. Operation of these elements lead to fragmentation of the criminal justice system and
generates which has been referred to as a non-system. A non-system refers to what happens when the practice of various subsystems differs so radically that a systematic reduction of crime cannot occur.

The idea of police, courts and corrections can also be regarded as subsystems within the broad framework of the criminal justice system. The effective functioning of the criminal justice system can be attributed to the co-ordination and co-operation of its various subsystems. In the criminal justice system, law enforcement plays a major role. It is the police who select the young offenders with whom the other subsystems of criminal justice must deal.

The young offenders are then sent to various correctional institutions. They are kept under various sections of the Indian Penal Code or the Criminal Procedure Code. They are detained for particular periods in these institutions. During this period of stay in

these institutions, they are provided with adequate educational and vocational training. On release from these institutions, they are sent to after-care homes (if they are destitutes/orphans) to help these (ex)inmates to seek suitable jobs for their normal life in society.

Children are a great asset to society. The growth and development of a child is based on his/her upbringing and surrounding environment. A child becomes a delinquent on account of various factors like social, economic, cultural, religious and emotional factors. It is the police, and juvenile courts who get hold of these social elements and sent them to the correctional institutions. The approved schools offer various facilities - educational, vocational, physical, moral, and medical, for the rehabilitation of such delinquents. The types of vocational training imparted to girls are tailoring, carpentry, goldsmithy, agricultural work, soapmaking and twelve other trades are taught. The ultimate aim of these institutions is to correct and rehabilitate the delinquents to enable them to lead a normal life in society.
5.5 PROBLEMS OF CORRECTIONAL ADMINISTRATION

There are a number of problems which beset correctional administration. It is observed that the Acts appear to have no respect for the natural and legal rights of children, nor for the constitutional properties that are so cautiously designed and respected in adult courts. The Acts place too much power-undefined and redefined in the three agencies that are authorised to handle these children, the police, the institutional authorities and the juvenile courts. The laws governing children do not allow anyone-legal practitioners, social workers and citizens (concerned) into the juvenile courts. Thus, the child is deserted and left to fend for himself. One of the defects in the functioning of correctional institutions is that the authorities tend to forget that many of these delinquents are those who belong to families of poor and pitiable conditions. It should be the duty of the authorities to repose self-confidence and mould their character.