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Jur. Ilse Lukas

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# PREVENTION OF JUVENILE DELINQUENCY AND CRIME IN AUSTRIA<sup>1</sup>

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DR. JUR. ILSE LUKAS

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## INTRODUCTION

To the classical penal law which considered crime from an exclusively ethical point of view, there corresponded in the penal legislation a policy based on repression. The modern conception of crime as a biological and social phenomenon leads to an attempt to find out the causes determining this asocial behavior.

The results of this research compels the giving up of repressive means and the adoption of preventive ones, especially as it is disclosed by criminal statistics that criminal recidivism is increasing and that consequently repression has failed.

Prevention, however, implies an intensive enlargement of the state power. If damage formerly was the occasion for intervention by the state, now social danger should suffice. With this claim crime prevention encounters, besides adversaries among those penologists who adhere to the classical interpretation of the penal law, a new enemy—the individualistic conception of state and justice which in the 19th century and until the world war was absolutely predominant.

The first attempt in Austria, in 1885, to treat juvenile delinquency restricted itself to measures for the confinement of juveniles between ten and eighteen years in reformatories when they had committed an offense and were completely neglected. Only paragraph 16 of this law of 1885, establishing workhouses and reformatories, can be considered as a preventive measure. According to this section, juveniles could also be transferred to a reformatory despite the conditions mentioned, if the legal representative (father or guardian) made such a request and the proper authority gave its consent. These provisions of 1885 were displaced by the juvenile court law of July 18, 1928, which became effective January 1, 1929.

Despite the urgent claims of the people concerned with youth welfare since the beginning of our century, no fundamental law has

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<sup>1</sup> This article was written before the German-Austrian *Anschluss*. The author was, at that time, an assistant in the University Institute of Criminology in Vienna.

as yet been enacted, regulating the protection, the education and the livelihood of children and juveniles and establishing a subsidiary public right of education in the case of defects in the domestic education. After the war, the efforts to bring about such a law failed chiefly on account of the cost. The legal basis for a federal youth law could even now be constructed from clauses taken out of different laws, although such a compilation would show big gaps as the individual measures are not founded on an harmonious system of principles. But the practical organization of youth aid (*Jugendfürsorge*) has not yet been regulated by a federal law for all of Austria. Only the federal institutions for juveniles lacking education (*Bundeserziehungsanstalten für Erziehungsbedürftige*) have been regulated by the federal juvenile court law. Before the World War youth welfare was preeminently in private hands. Now it is taken care of predominantly by the single states, i. e., by public agencies which, according to the resources at their disposal, do social work through the public boards for youth welfare (*Jugendämter*).

Prevention of juvenile delinquency and crime embraces not only legal measures which aim in the first place at crime prevention. It embraces also many of those measures that tend to be established chiefly for other purposes, but are of great influence for crime prevention, such as social and medical hygiene. Besides the measures which directly aim to paralyze the unfavorable disposition and environment, also those measures must be considered as preventive ones which aim to counteract their causes.

This article is limited to those measures which aim to safeguard the physical, mental and moral education of the growing youth. In the first part of the article all those agencies will be discussed which on account of their comprehensive social character have also the effect of indirect crime prevention, such as the family, the school and the institutions for youth aid (*Jugendfürsorgeeinrichtungen*). In the second part those measures will be sketched which have to carry out directly the tasks of crime prevention, such as laws and police decrees which protect youth against bad influences, and above all the juvenile court law.

For a better understanding of this exposition we may mention that Austria is a confederation composed of the independent city of Vienna and eight states. According to the census of 1934, the population of Austria numbered 6,762,687; the inhabitants of the city of Vienna, 1,874,130.

## I. GENERAL PROTECTIVE MEASURES

### 1. *The Family*

#### a) The Legitimate Child

Austrian legislation considers the family to be the best guarantee for the sound development of the child. According to old German legal principles each relationship implying authority, also implies protection. As the legal relationship between parents and children is based on that principle, the confidence in the family as the proper center for the rearing and the education of the children is quite justified. Parents therefore have not only the right, but also the duty to rear and to educate their children and thus to lay the foundation for their well-being in the future.

Interference with parental power of education can only be effected on carefully defined grounds—firstly, if the parents abuse their power or neglect the child, and secondly, if defects in the parental education are proved by the fact that the child has committed a punishable action.

If the parents culpably neglect the education of their children, the latter, or anybody who learns of the fact, are entitled to demand help from the court of chancery (*Vormundschaftsgericht*). In serious cases the court deprives the parents of the *patria potestas* and takes the child away from the family in order to place it with foster parents or in an educational establishment. In milder cases the child is left with the parents, but its education is supervised by the court. In the mildest cases the warning of the parents is considered to be sufficient at first.

These provisions were introduced by the Austrian civil code as early as 1811. The modern spirit of this old law is really admirable. As early as 1811 there was laid conclusively the basis of a modern remedial or correctional education (*Fürsorgeerziehung*). As it was introduced by the Austrian civil code it distinguishes itself, however, from that postulated now-a-days by the conditions which provoked its action. According to the conditions named, it could be brought into action only by negligence, legally attributable to the parents. Today, however, correctional education may be invoked if an objective lack of parental care is found; whether that lack is due to negligence by the parents or to unfavorable circumstances.

Since January 1, 1929, the juvenile court is entitled to impose educational measures which are based only on a want of education,

i. e., on a truly objective reason. But the juvenile court can only do so if the juvenile person under 18 years of age has just committed a punishable action.

Propaganda for a fundamentally modern law concerning trustee education (*Fürsorgeerziehungsgesetz*) has been going on in Austria since 1901; the last project was elaborated in 1921, but failed of passage on account of the cost.

According to the present stage of our legislation, the education of a legitimate child is in the hands of its parents and can only be influenced if a serious lack of education justifies it.

#### b) The Illegitimate Child

The management of the education of an illegitimate child is regulated in a different way by the Austrian civil code, because the presumption of a well settled family life does not exist generally in the case of illegitimate children. The supervision of their education is the task of a guardian, whom every illegitimate child must have. The illegitimate children should also stay as long as possible with the mother or with relatives of the mother, as the duty and the right to educate them are primarily entrusted to the mother. The father of the illegitimate child is obliged to provide for the material means, but a legal relationship does not exist between him and the child.

The guardian supervises the education by the mother. He is entitled to take the child from the mother at any time if its well-being is objectively imperiled by her. In such case, the guardian tries to place the child, if its constitution is normal, in a foster family in order to make it participate in the favorable influences of a family education. If on account of the physical, mental or moral constitution of the child that should be impossible, the child is placed in an educational establishment.

Whereas before the World War guardianship was mostly entrusted to individuals who usually accepted the trust with disgust, considering it as an annoying civil duty and not paying much attention to the fate of their wards, the guardianship for illegitimate children is now entrusted to the public boards of youth welfare whose organization and activity will be described later.

More than one-fourth of the children born in Austria are illegitimate. It may be added that the rate of illegitimate births varied in the different states in 1933 from about 9% in Vorarlberg to about 43% in Carinthia. The percentage of illegitimate births in Vienna amounted to about 23%; it surpassed 25% in 1935; whereas

the percentage declined that year in the other states. The following figures show the importance that must be attributed to the provisions for illegitimate children.

<i>Years</i>	<i>Total Number of Births</i>	<i>Illegitimate Births</i>	<i>Percentage of Illegitimate Births</i>
1921-25	150,117	31,253	20.9
1926-30	121,004	31,077	25.6
1931	109,286	30,126	27.5
1932	105,289	28,639	27.2
1933	98,861	26,085	26.4
1934	93,863	24,824	26.4

In the years of 1929-1932 about 27.8% of the illegitimate children became legitimized by subsequent marriage of the parents and thus were removed from the assumed specific sphere of danger created by illegitimacy.

### c) Housing Problems

Sound family life depends to a great extent upon economic questions. Thus an educational emergency (*Erziehungsnotstand*) often results from the fact that the members of a family are living under too crowded conditions, or have lodgers or sub-tenants.

In the field of housing the city of Vienna has since 1923 set an excellent example for other industrial centers by having brought about a thorough remedy for the housing evil by its broadminded policy. The number of apartments increased by 27.2% in 1934 as compared with 1910. A comparison of the number of occupants of the apartments in 1910 and 1934 gives the best picture of the results of this housing policy. In 1910 the number of occupants per apartment in Vienna averaged 4.14; this average dropped to 3.03 in 1934.

The housing conditions, however, are not yet satisfactory. Statistics published by Obermagistratsrat Dr. Breunlich last year, following an investigation of beds occupied by 67,652 children and juveniles under 18 years of age, show a very unpleasant picture of the sleeping conditions of the distressed population of Vienna. Out of 67,524 children and juveniles only 36,872 had beds of their own; 30,652 children and juveniles had to share their beds with others. Thus 8,087 children and juveniles slept with their parents in the conjugal bed; 14,950 slept with other members of the family of the same sex, and 5,978 with members of the family of the opposite sex. Twenty children and juveniles had to share their beds with outsiders. It needs no further illustration to show the great moral

perils caused by such sleeping conditions, especially for school children.

In order to enable families without shelter to lead normal lives, the city of Vienna has in the last three years established so-called "family asylums." Plans have been made for five such asylums with altogether 1,000 apartments. One family asylum with 217 flats has already been finished and is in use.

## 2. *The School*

School education is automatically added to the education juveniles enjoy at home. In Austria there is compulsory attendance for children between six and fourteen years of age.

The elementary school law (*Reichsvolksschulgesetz*) since 1869 does not restrict the task of the school to the inculcation of knowledge, but entrusts particularly to the teachers the moral, religious and civic education of the children. The teachers should therefore also take care of the conduct of children outside school and should keep them away from every pernicious influence. It is furthermore the task of the teachers to prepare reports, which not only judge the attainment but also the personal quality of the pupil and which contain details on domestic conditions. These records enable the juvenile courts to find correct penal and educational measures suitable for the juvenile.

Today there is close contact between the visiting teacher (*Schulfürsorgerin*) and the body of teachers. Noticed neglect or complete abandonment of children have to be communicated to this social worker in the schools who has to consult the parents of the children and to provide for the necessary remedy. In this way there also is created an actual general control over the legitimate children in their own family. The legal basis of this control has hitherto been lacking.

## 3. *Youth Aid*

The depression has proved conclusively that the education of the children by family and school alone often does not suffice completely from an hygienic, mental and moral point of view. The youth aid (*Jugendfürsorge*) sets itself the task of supplementing this education in certain cases and even replacing it totally if it is of an improper kind. The media of the Austrian youth aid are the public boards for youth welfare and private agencies for youth welfare.

### a) The Public Boards for Youth Welfare

The concerns of the public youth aid fall, according to the Austrian constitution, within the rights of the single states. The independent city of Vienna and the other states, with the exception of Tyrol and Vorarlberg, have made use of this right by creating public boards of youth welfare.

The beginnings of the movement for establishing these boards are framed in the poor laws, the law regarding the guardianship of illegitimate children and the public hygiene acts. These legal measures go back to the past century.

The last impetus for the establishment of these boards was given by the institution of "general guardianship" in the amendment added to the civil code in 1914 and the law of 1919 on the protection of foster-children and illegitimate children. In the last war years and above all in the first post-war years public boards for youth welfare were created first in lower Austria and in Vienna and subsequently in the remaining states. Only in Tyrol and Vorarlberg is the entire case for youth still in private hands.

The different organization of these boards in the single states renders it impossible to report on their organization and activity in all Austria, particularly since only the board of the city of Vienna publishes an annual report. Although the aims and purposes of the various boards are the same, yet the practice differs among the states according to local conditions and to the financial means at hand. Therefore I shall confine myself in this article to the organization and activity of the public board for youth welfare of the City of Vienna.

The activity of a board for youth welfare may be subdivided into three main groups: legal aid (*Rechtsfürsorge*), whose business it is to watch the rights due to a child, the family aid (*Familienfürsorge*), whose task it is to support and supplement the livelihood and education of the child in the domestic circle and finally the so-called closed aid (*geschlossene Fürsorge*) which has to place the children unfit for family education in educational or health establishments.

The legal aid includes above all guardianship for illegitimate children. The legal basis is found in paragraph 208 of the civil code, which section was inserted in the civil code by the amendment of 1914. By this section the court of chancery which earlier was only entitled to appoint individuals as guardians, was enabled to hand over guardianship also to competent public agencies or to



child-welfare associations. The states and some large towns have declared the public boards for youth welfare to be such "competent agencies." They were usually charged by the court of chancery with the guardianship of illegitimate children under the form of "automatical general guardianship." According to this, all illegitimate children fall automatically from their birth until their majority (21 years of age) under the guardianship of the appropriate public board for youth welfare.

The decree of June 24, 1916, concerning general guardianship prescribed that children under the supervision of a general guardian should undergo medical examination and that their housing and care should be looked into by women experts at regular intervals. The decree, therefore, obliged everybody in charge of a ward to give information to the general guardian and his deputy upon demand and to admit them to the home, the work shop and to the child itself.

The public boards for youth welfare take care of the general guardianship as well as of the welfare of the youth in general by means of district organizations, whose boundaries usually coincide with those of the court districts. The public board of the city of Vienna has fourteen district bureaus (*Besirksjugendämter*), which in turn control sub-divisions (*Fürsorgesprengel*), the number of which amounts to 250. In every such *Fürsorgesprengel* there is a woman social worker (*Fürsorgerin*).

The general guardianship is managed by the appropriate district board by means of a legally trained supervisor, the affiliated public guardians and the social workers. The general guardianship includes doing all that is necessary for establishing the paternity of illegitimate children; it has to care for the collection of the monies from the parties concerned; and finally, it has to represent the ward in court in the making of contracts, etc. In 1935 the public board for youth welfare of the city of Vienna managed the guardianship of 23,852 wards and ascertained paternity in 1,815 cases.

The legal aid also includes collaboration in juvenile probation (*Jugendgerichtshilfe*) and, according to the law of 1919 concerning foster children's care (*Ziehkindergesetz*), the supervision of the care of foster children who are legitimate and illegitimate children under 14 years of age in care of strangers.

The family aid of the board embraces provisions in hygienic matters (*Gesundheitsfürsorge*) and provisions for supplementary education (*Ergänzungserziehungsfürsorge*).

Hygiene has its own importance for crime prevention, because it has been conclusively proved that the unfavorable position in the struggle of life arising from physical inferiority induces some persons to commit crimes.

As a part of the hygienic work of the board must be mentioned above all the advisory clinics for mothers (*Mutterberatungsstellen*). Being under medical supervision they serve as institutions where the state of health of the children under care is ascertained at regular intervals. But also the mothers of other children are entitled to consult the advisory clinics about the proper nursing of their children. The board of Vienna ran 33 advisory clinics for mothers in 1935 where 179,333 children underwent medical examination.

Among other hygienic institutions of the board there may be mentioned: the medical advisor of the individual schools, the dental clinics for school children, the public feeding of children—which dates back to the work of the “American Relief Administration” shortly after the war—the provisions for recreation (*Erholungsfürsorge*), which enables needy city children of poor or endangered health to have a country visit.

The provisions for supplementary education include assistance to parents by advice and action. Fourteen advisory education bureaus (*Erziehungsberatungsstellen*) are at the disposal of the parents who may use these institutions for pedagogical treatment of children in apparent educational difficulties. In 1935, 1,266 cases were assisted. Active aid is necessary at times when parents for some reason or other are unable to supervise the children during the day and to give them appropriate occupations. The board runs kindergartens for pre-school children and child stations (*Jugendhorte*) for school children.

The kindergartens have the purpose of studying the small children in order to give them occupations adequate to their ages and to make them accustomed to life in the larger community. For some years infants of different ages have been grouped in so-called “family groups” (*Familienabteilung*) in order to stimulate as far as possible the normal life in the family. Particular significance is to be attributed to the popular kindergartens (*Volkskindergarten*) that were established in the early post-war years. Whereas the normal type of kindergarten takes children from 8 to 12 A. M. and from 2 to 5 P. M., the popular kindergarten is opened from 7 o'clock in the morning to 6 o'clock in the afternoon. The children are

brought there by the parents before they go to work and are taken home in the evening after work. They are also fed there. The kindergartens are subdivided into groups of at the most 40 children who are under the supervision of a kindergarten teacher. In 1935 the board supported 101 kindergartens with 257 groups which were attended by a daily average of 5,825 children.

The child stations have the purpose of looking after and training during their free time those school children who do not enjoy during this period the necessary home supervision or in whose cases the parental education does not suffice, owing to pedagogical difficulties. In the child stations the children first do their school lessons, then occupy themselves with fancy work, singing, playing games, sports, etc., all under the management of a competent teacher. For deaf and dumb, and for retarded pupils (*Hilfsschüler*) who are inadequately gifted and are therefore unable to follow the progress of the normal children, the work for the school lessons is managed separately. Except for this, however, these children mingle with the normal ones in order to facilitate their adjustment in society. To these child stations must be attributed, as is generally recognized, a great significance as prophylactic means against the neglect of and the delinquency of school children. In 1935 the board ran nine child stations with 89 groups, frequented by 2,315 children on a daily average.

The "family aid" or "open aid" is often called "supplementary education" because it is additional to the domestic education. In contrast to this the "closed aid" is "substitute education," for it has to supplant the domestic education.

The "closed aid" has to provide for the housing of its protégés in health or educational establishments, when for some reason or the other these children can be placed in a foster family. These are for example: homeless children above six years, who are for this reason very seldom taken by foster parents who prefer younger ones, who can accustom themselves more quickly to a new environment. Among them are furthermore the needy children who have a sense defect or are crippled, and who must be placed in special establishments. Finally, psychopathic, strongly neglected, and children difficult to educate, are placed in special establishments. Such special institutions exist for inadequately gifted children, for intelligent psychopaths, for school children who are difficult to educate, or juveniles between 14 and 18 years, sexually abandoned girls, etc. There are different establishments for boys and girls.

The transfer of children, who for some reason or another have no home or can not be left at home, is effectuated by the child receiving center (*Kinderübernahmestelle*), which receives children from the board, the police, the houses for homeless, the lying-in-hospitals, all children who are abandoned, maltreated, neglected, without shelter, etc. Juveniles, however, i. e., young people between 14 and 18 years get into the police home for youth (*Polizei-jugendheim*) before their definite transfer. The child receiving center and the police home for youth are only transitory stations where the transferred children are examined and observed. When they are sound and sane, an attempt is made to place them in a foster-family; when they are not, transfer to the proper establishment is effectuated. Children attending school, for whom the necessary educational policy can not be determined after a short time of observation, are turned over to the central children's home (*Zentral-kinderheim*). There they are placed in one of the existing observation groups. By watching their behavior and by intelligence tests it is determined with the help of a teacher which measures are the most appropriate ones. A four-class elementary school was opened in 1935 for the children of the observation groups in the central children's home in order to prevent too great losses in their educational progress during the time of observation.

The institutions, wherein children and juveniles are placed by the closed aid of the board are partly municipal and partly under private management. At the end of 1935 1,150 children were placed in municipal institutions and 1,880 in private ones. Four thousand nine hundred and eighty-six children were placed in the care of foster parents.

#### b) The Private Agencies for Youth Welfare

A large number of smaller and larger denominational and undenominational societies and clubs are devoted to work for the youth. On the whole they run institutions serving similar purposes as those we have found in the work of the public boards for youth welfare. I want to stress one feature of this private aid which first ventured to combat the most serious peril facing the youth leaving school, namely unemployment. The bad influence of unemployment threatens about 100,000 young people under 25 years of age in Austria. The aforementioned private aid is the relief organization "Youth in Need" (*Aktion "Jugend in Not"*) created in 1930 for the city of

Vienna under the impulse of the youth council of the union of workmen and clerks.

The relief organization "Youth in Need" initially restricted itself to establishing day homes for unemployed juveniles under 21 years of age, where they were supposed to hear lectures, take part in Jack-of-all-trades courses, avocational reading courses and games under the supervision of competent teachers. In 1930 forty-three homes were opened. They were frequented to a total of 170,651 visits in the work year 1930-31. In the work year 1933-34 there were already 117 homes with a total of 1,789,393 visits, the average number of the daily visitors amounting to 7,810, including boys and girls. Since 1932 "Youth in Need" has not confined itself to assisting youth during their leisure hours, but has enabled it to gain experience in practical work and vocational training. Workshops with the necessary tools and machinery have been erected where juveniles assembled in working groups (*Arbeitsgemeinschaften*) are trained for certain trades. In 1934 eighty-five such working groups were formed where 2,500 juveniles met daily. There were groups of metal workers, joiners, shoemakers, tailors, and a Jack-of-all-trades group. The juveniles were engaged in labor of public utility in order not to compete with workers in actual jobs.

Although "Youth in Need" and the voluntary labor service (*Freiwillige Arbeitsdienst*) created by the federal government in 1932 meant help and protection for some thousand young people, only favorable economic conditions will do away with the great peril which unemployment means to youth.

## II. SPECIAL MEASURES FOR CRIME PREVENTION

### 1. *The Protection of Juveniles Against Bad Influence*

The penal and police clauses to protect youth against bad influences are directed above all against the abuse of alcoholic drinks; immorality and trash in moving picture houses, press, and literature; the perils of the street; prostitution; and the bad influences of certain occupations.

A federal law enacted in 1922 stipulates punishment of those who serve alcoholic drinks to juveniles under the age of 16 years in public houses or in other places where alcoholic drinks are sold.

In order to safeguard the juvenile mind against temptation, especially in regard to sexual relationship, there are regulations prohibiting juveniles under 16 years of age to attend moving picture

theaters, except when the performances are distinctly authorized for juvenile attendance. The clauses prohibiting the propagation of trashy literature and immoral pictures among juveniles serve the same purpose. Since 1929 everybody is to be punished who voluntarily distributes among juveniles under 16 years of age anything printed, a picture, or moving pictures, which are immoral or at any rate likely to excite the sexual feeling of the youth.

To preserve youth against the perils of the street, child begging has been prohibited, also the employment of children as vendors, etc. Furthermore, children under 16 years of age are subject to a curfew law. The parents are obliged to enforce it.

Also, everything should be kept away from the youth which can arouse or confirm their inclination to idleness or to a disorderly and loose conduct. Persons under 16 years of age are not allowed to visit restaurants, coffee-houses, cabarets and vaudeville shows except under the supervision of an adult person. They are not allowed to smoke or to play cards in public places.

The child labor law of 1919, displaced by a new law in 1935, forbids the employment of children under 14 years of age in places or occupations which might harm the child in its physical, mental and moral development.

It is expressly forbidden to employ boys under 14 and girls under 16 years of age in the dispensing or service of drinks. Furthermore the law prohibits the employment of children under 14 years of age in vaudeville, cabarets, night bars, circus performances, dancing halls, etc. In other public entertainment, as well as in the film industry children under 14 years of age may not ordinarily be employed. Only if there is a special interest of art, of science or of instruction and if the character of the special occupation justifies it, may the competent authority be entitled to grant exceptions.

There may also be mentioned the clauses of the police decrees of several states, dealing with dancing lessons, because these clauses fulfil the demands of many a juvenile psychologist. These decrees prescribe that dancing is to be taught in three age groupings: children under 14 years of age, juveniles between 14 and 16, and persons above 16 years of age.

As to the prostitution of juvenile girls, a 1911 decree of the police department of the city of Vienna declares that girls under 18 years of age can not be put under police control. Consequently they are legally excluded from prostitution. It must be understood

that uncontrolled prostitution is forbidden in Austria. After several offenses punished by the police, the irregular prostitute undergoes punishment by the court which has also the power to confine the sentenced woman in a work house. Prostitution is only tolerated when under police control, because only then can the state of health of the prostitute be strictly observed. If minors between 18 and 21 years of age petition for registration, everything should be done to make them drop their intention prior to the giving of legal consent. For that purpose the legal representative of the minor, the public board of youth welfare and private charitable institutions should have the opportunity to exercise their influence. Only if moral abandonment, which excludes any improvement, is positively ascertained may the consent be given. Male juveniles under 16 years of age are forbidden to visit prostitutes. On the other hand prostitutes are prohibited from seducing male juveniles on pain of from three to six months' imprisonment.

There are no clauses regarding male prostitution in Austria, because homosexual intercourse is severely punished by the penal code.

## 2. *The Juvenile Court Law*

The juvenile court law of July 18, 1928, which displaced the first juvenile court law of 1919 and went into effect January 1, 1929, is applied if a minor or a juvenile has committed a punishable action. A minor, according to Austrian law is a child under 14 years of age. According to the juvenile court law a juvenile is a person between 14 and 18 years of age.

It is characteristic for the organization of the juvenile court that the same judge controls the guardianship as well as the sentences in penal cases concerning juveniles. It is characteristic in the *proceedings* of the juvenile court, that all decisions aim at educational results.

If a minor or a juvenile has committed a punishable action which is reported to the juvenile court, there are rigorous investigations made regarding his physical and mental qualities. These investigations are made by probation officers (*Jugendgerichtshilfe*).

The probation work is performed by the public boards for youth welfare, by charitable societies and by individuals who are concerned with youth aid and have placed themselves at the disposal of the juvenile courts in order to assist in their work. Probation work is not only restricted to the aforementioned investigations.

It includes the making of suggestions of the most appropriate correctional measure and the supervision of the probation and the parole of juveniles.

If a minor has committed a crime, only educational measures can be applied, because minors are not punishable by the penal code. If a juvenile has committed a crime he is not deemed responsible for it if for special reasons he was not mature enough to be aware of the unrightfulness of his doing or to act in accordance with his knowledge. A responsible juvenile is ordinarily submitted to punishment *and* to educational treatment, but for the punishment of responsible juveniles there are special legal provisions.

Juveniles, for instance, can not be sentenced to death or to penal servitude (*Kerkerstrafe*). The heaviest penalty for them is rigorous imprisonment (*strenger Arrest*). Instead of lifelong imprisonment, confinement must be limited to 10 years at the maximum. The maximum of temporary imprisonment is five years.

In particularly mild cases the juvenile court may turn over the juvenile for punishment by the persons responsible for his education or may dismiss him with a warning instead of inflicting upon him a small fine or a short prison term. Even in more serious cases the juvenile court may suspend the imposition of the sentence for a probationary period, if this can be done without damage to the legal order and the juvenile himself. In such cases the court often applies educational measures. Apart from this "genuine suspended sentence" the "spurious suspended sentence" is at the judge's disposal. Here the sentence is imposed, but its execution is suspended for a probationary period. If the juvenile court states that imprisonment is necessary "in order to change the character and to overcome the harmful inclinations of the juvenile," the juvenile judge is entitled to inflict a relatively indeterminate sentence on the juvenile if he does not know in advance what length of punishment would be necessary to reach the aforementioned aim.

Some figures will be given to illustrate the proportion of the criminality of juveniles to that of adult persons.

The sentenced were:

	<i>Juveniles Under 18 Years of Age</i>	<i>Adults</i>	<i>Total</i>	<i>In Per Cent of the Total</i>
1933	3,553	113,841	117,374	3
1934	3,123	103,703	106,826	3
1935	4,013	108,052	112,065	4



In 1935 45% of the juveniles were sentenced for theft, 9% for assault, 6% for vagabondage and begging, 5% for immorality, and the rest for various other offenses.

Upon the kind of sentences imposed on the convicted juveniles the following table informs us:

<i>Type of Sentences</i>	1933 %	1934 %	1935 %
Arrest (definite penalty) .....	46	42	42
Suspended .....	27	22	22
Not suspended .....	19	20	20
Relatively indeterminate sentence.....	..	..	1
Fine suspended .....	2	2	2
Not suspended .....	2	2	1
Genuine suspended sentence .....	41	43	46
Turned over for punishment by the persons responsible for the education of the juvenile.....	..	1	..
Warnings .....	9	10	8

This table shows that only 20% of the sentenced juveniles had to undergo imprisonment. The execution of the penalty is carried out in particular penitentiaries for juveniles. At the present there are two such penitentiaries—one for male juveniles in the city of Graz and one for female juveniles in Wiener-Neudorf. The persons to whom the treatment of juvenile prisoners is entrusted, should undergo a pedagogical, psychological and psychiatric schooling. The treatment of the juvenile prisoners should be earnest and benevolent and has to preserve and to strengthen their sense of honor. The juveniles enjoy regular schooling. Their physical development is promoted by gymnastics, sport and games.

Educational measures are imposed by the juvenile court whenever a juvenile or a minor has committed a crime and if this is connected with the fact that he lacks the necessary education. Educational measures are imposed whether the juvenile is sentenced or not. Before the court makes its choice, the advice of the probation officer is requested. In many a mild case advice of the parents will be sufficient, if they did not properly direct the education of the child on account of ignorance. If however the lack of education is due to a culpable neglect on the part of the parents, the juvenile court imposes the above mentioned measures of guardianship restricting or depriving the parents of *patria potestas*. If possible the juvenile or the minor is left with his parents, but put under educational supervision. The minors or the juveniles can also be

taken away from their parents and placed in a foster family. If they are of bad moral character they are placed in an educational establishment. They can also be given into the care of the public boards for youth welfare or transferred to the probation service, if these institutions declare themselves willing to receive them. In the most serious cases there occurs a commitment to the federal institutions for juveniles lacking education (*Bundeserziehungsanstalten für Erziehungsbedürftige*). There are now two such institutions, one in Kaiser-Ebersdorf for boys, the other in Hirtenberg for girls.

In the institutions last mentioned pupils are kept as long as it is necessary for their education, but not beyond their 20th year. After finishing their schooling they are trained for a suitable trade. In Kaiser-Ebersdorf there exists a special vocational adviser who has to choose the most suitable trade for the juveniles. The institution disposes of 14 well equipped workshops for manual training. It disposes further of a training school for apprentices to which a commercial department is annexed. For the training of qualified agricultural workers an estate of 300 acres has been rented. Greatest attention is paid to the right choice of occupation for the pupils, because a well and willingly practiced trade is the best guarantee for lasting educational success. The pupil entering the institution comes at first into a review group for observation, directed by an expert vocational advisor. Physical and psychological fitness are determined by medical and psychiatric investigation; individual talent by psychotechnical tests. It is, however, the primary task of the expert adviser of juveniles who have already committed a crime, to consider their moral fitness for a special occupation. Thus he has to avoid all trades that will give to the juvenile knowledge and experience that he may abuse because of his criminal inclinations.

The physical training of the pupils is provided by gymnastics, sport, games and work in the open air.

The majority of the pupils stay 18 months on the average, when an attempt is made to procure them a job. If they do not improve, they come back to the institution, under the supervision of which they remain until they reach the 20th year of age.

Federal institutions for juveniles lacking education entered into function January 1, 1929, the day the juvenile court law became effective. The following table informs us on the number of pupils confined in these institutions.

Year	— Kaiser-Ebersdorf —			— Hirtenberg —			Total
	Ad- mitted	Re- leased	Confined at the End of the Year	Ad- mitted	Re- leased	Confined at the End of the Year	
1929	198	3	195	55	5	50	245
1930	292	84	403	74	11	113	516
1931	257	260	400	65	49	129	529
1932	223	191	432	50	62	117	549
1933	239	241	430	51	56	112	542
1934	232	239	423	39	44	107	530

On account of the short time of the existence of these institutions there is available no general account of their educational success. At present the histories of 92 pupils released in 1929 and 1930 are being studied. The average time of their study amounted to only 13 months. 49% of these 92 released pupils did not recidivate. 15% of them became criminals again, but showed an education result anyway since the newly committed offenses were of a slighter nature. The remaining 36% relapsed without showing any improvement. It is hoped that in the future there will be obtained a full and permanent success in 60% of the pupils.

#### CONCLUSION

The present article has confined itself in the first place to those institutions which are to be a guarantee against the physical, spiritual and moral neglect of juveniles as this neglect often leads to delinquency and crime.

In conclusion it may be pointed out that also in Austria besides the social work done for the wayward youth efforts are made to care for the sound and normal juveniles and to increase their welfare. For that purpose interested persons clamor ever more insistently for regulation of the welfare work among the young, i. e., the care of the physical, spiritual and moral welfare of the child from its birth until its majority by a fundamental law and by a suitable organization for the entire confederation of Austria.

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