CHAPTER IX

ADMINISTRATIVE CHILD CARE

State as parens patrae has an obligation to provide care and protection to every child who remains unprovided or unprotected for any reason whatsoever. In contingencies like the death of their parents, rendering them homeless; or disablement of their guardian, leaving them breadless; or the child going out of the parental control; or due to the poor economic condition the parents being unable to maintain their children; or the home conditions being conducive to the misbehaviour of the children; or where they show criminal tendencies, which are beyond the mild correction of their parents or where the children are handicapped physically or mentally or socially, it is in the interest of both the child and the society that the state assumes their direct charge and not only provides them care and protection but also a intensive and prolonged disciplinary, vocational and moral training to enable them to protect themselves against physical and moral dangers and rehabilitate themselves in life as normal citizens.

It is now recognized that administrative action has a great contribution to make in the protection and care of the child. Public administration is a separate and highly technical branch of study. At that discipline organizational structures and processes are described and judged in terms of planning, organisation, staffing, directing, co-ordination, reporting and budgeting. Some of these elements of administrative organisation are beyond the scope of this work e.g. reporting, budgeting, while others will be discussed briefly so far as they fit in a legal frame work of child care, welfare and protection. We shall divide our inquiry into the following sub-heads:

I. Planning for Child Care

II. Administrative Set-Up
   (A) Governmental Organisation
   (B) Non-Governmental Organisation.

III. Man-Power, Training and Research.

I. PLANNING FOR CHILD CARE

The existing policy statement for child welfare is contained in the National Policy for Children Resolution of the Government of India appended to work. The Parliament and the State Legislatures are responsible to provide a legislative frame work to this policy in their respective areas. On non-legislative side the social planning division of the Central Planning Commission, with the help of planning bodies of the state and district level, draws the child welfare plans which are ultimately finalised and approved by the National Development Council.

In view of the emphasis laid in the National Policy for Children to have a constant forum for planning, review and proper co-ordination of the multiplicity of services striving to meet the needs of children, a National Children's Board was established at the Union level. This is a high level policy making body, with the Prime Minister as its president and Ministers of Finance, Health, Education, Labour and Social Welfare, Deputy Chairman Planning Commission, Several State Ministers and child welfare experts as other members. It has powers to modify the National

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2. No.1-14/74 ODD, dated 22nd August, 1974.
3. See, Appendix II of this work.
4. The scope of the respective jurisdiction of the Parliament and State Legislatures is indicated in the three lists i.e. Union List, Concurrent List and the State List, under the Constitution of India, 1950, VIIth Schedule.
Policy Statement, as the exigencies of the time may require. It is the highest forum in the country to plan, co-ordinate and review the child welfare programmes, including legislation. The Policies for the specific fields viz. health, education, social security and welfare are chalked out by the respective ministries under the chairmanship of the Minister concerned. State Child Welfare Boards have also been constituted in some states, which are responsible to formulate the child-welfare policy for their respective States and to review and co-ordinate the child welfare efforts in the State.

The National Children's Board having been set up only recently, is yet in the stage of establishing itself. Its legislative policy making role is also not established as yet. For practical purposes the Central Planning Commission carries out Child Welfare Planning with the aid of different Ministries while legislative policies are decided by the different Ministries in respect to the subjects allocated to them. The respective areas of planning between these organs viz. the Children's Board, the Planning Commission and the various Ministries, has yet to be defined.

II. ADMINISTRATIVE SET-UP

Child Welfare is being simultaneously looked after by governmental and non-governmental organisations. It involves the interaction of more than one departments and disciplines. The implementation of child care and welfare on the one hand involves the governmental departments, secondly it involves quasi-governmental agencies such as the Central Social Welfare Board, the National Institute of Public-Cooperation and Child Development etc., thirdly, the non-governmental organisations such as Indian Council for Child Welfare, the Indian Council of Social Welfare etc. are as much part of the child-care process as the preceding two organisations are. We shall first deal with the governmental

6. The National Children's Board functioned as the National IYC Commission and prepared the comprehensive National Plan of Action for the Children's year 1979, including child health, nutrition, education, child welfare and legislation.
organisation for child welfare at the Central, State and Local
two levels respectively and then pass on to discuss the non-govern-
mental set-ups.

(A) GOVERNMENTAL ORGANISATION

The Governmental set-up in relation to child welfare and
protection may be classified into three viz (a) Departmental
set-up, (b) statutory authorities, (c) statutory Institutions.

(a) Departmental Set-Up : At the central government level there
is no one department/ministry having an exclusive charge of child
care, welfare and protection. Child welfare is partialled out
under the administration of several Union Ministries and depart-
ments. For instance, the administration of the Children Act, 1960,
The Probation of Offenders Act, 1958 and the Suppression of
Immoral Traffic in Women and Girls Act, 1956, has been allocated
to the Ministry of Social Welfare. The Ministry also manages the
Integrated Child Development Scheme, creches, welfare of children
in need of care and protection, child development and nutrition,
welfare and rehabilitation, handicapped children, social defence
and general social welfare.

The Ministry of Health administers the central health legis-
lations and is in charge of maternal and child health, family
welfare and nutrition. The Ministry of Food organises the schemes
of subsidy food and nutrition schemes, while applied nutrition is
attached to the Union Department of Rural Development. The Ministry
of Education looks after the entire field of education. The
Ministry of Labour and Employment administers the whole body of
labour laws through its Secretariat. There is no separate adminis-
trative set-up for child labour and the same is covered under
general labour welfare.

The Ministry of Social Welfare at present acts as a nodal
ministry for overall policy and co-ordination in child develop-
ment programmes of the different ministries. It shares the
largest portion of child care, welfare and protection. It pro-
motes and develops voluntary efforts of child welfare. Its
legislative competence extends to social security. It maintains

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8. Except the matters allotted to any other department.
a liaison between the Government of India and the UNICEF\(^9\). It tackles the references from the United Nations Organisation relating to traffic in women and girls. It co-ordinates the activities of the various foreign voluntary agencies including CARE\(^{10}\) in the field of child and social welfare. The Ministries activities are assisted by the Central Social Welfare Board, the National Institute of Public Co-operation and Child Development(NIPCCD), the National Institute of Social Defence and the National Institutes of the physically handicapped\(^{11}\).

The National Institute of Public Co-operation and Child Development is the pioneer body sponsored by the Planning Commission and established as an autonomous organisation\(^{12}\), with the main purpose of conducting research and evaluation studies in public cooperation and child development and training of governmental and voluntary sector and allied activities\(^{13}\). The Institute not only itself imparts training but augments the training effectiveness of other training institutions for child care through various programmes and support materials.

The Central Social Welfare Board was set up in 1953 mainly to promote voluntary effort in the delivery of welfare services through voluntary organisations\(^{14}\). The Board is the main agency of the Union Ministry of Social Welfare for undertaking and implementations of different programmes for the welfare of children and the handicapped and for promotion of voluntary efforts in the country. It is fully founded by the Government of India. Distribution of grants-in-aid in various fields to voluntary institutions is the primary function of the Board, but it is also an implementing agency of the Ministry of Social Welfare for certain programmes.

There are a number of Institutions, Schools, Training Centres and workshops under the aegis of the Ministry of

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10. The Organisation named Co-Operative for American Remittances to Europe, popularly called CARE is a voluntary agency situated in USA. One of its objective is to make country's largest nutrition programs viz Pre-School Nutrition Programme and the Food for Work Programme as self sufficient by its continued assistance.
12. It is registered since 1966 as a society under the Societies Registration Act,1860.
13. National Institute of Public Co-operation and Child Dev-
Social Welfare, to provide a wide variety of services to the
different categories of physically handicapped children viz. blind,
deaf, orthopaedically handicapped etc. The Artificial Limbs Manu­
facturing Corporation of India, Kanpur was set-up on 1972, to
provide artificial limbs and accessories at reasonable costs.

The National Institute of Social Defence, a subordinate
office of the Ministry of Social Welfare, has been set up to
review policies and programmes in the field of social defence to
anticipate and diagnose social defence problems; to develop pre­
ventive, rehabilitative and curative policies and to evaluate the
implementation of social defence policies and programmes. To meet
these objectives the Institute undertakes research, compiles pro­
cesses and analyses statistics; develops, promotes, sponsors and
conducts training; drafts model legislation, rules and regulations;
advise the central and state governments, Union territories and
provides technical service facilities.

The Institute is thus concerned with a wide range of preven­
tive, correctional and rehabilitative services in various areas of
social defence, including juvenile vagrancy, delinquency and
crime; probation; beggary, social and moral hygiene; alcoholism,
gambling; suicides and drug addiction among children. With a
view to achieving the envisaged tasks, separate divisions for
research, training and common services facilities have been set-up
at the Institute.

The states too put up nearly the same pattern of structure.
The Directorate of Social Welfare with a Child Welfare Division,
constitutes the apex of child care and welfare organisations in
almost all the states. The Central Social Welfare Board has its
branches in all the states and Union territories called the State
Social Welfare Advisory Board, which helps the Directorate in the
implementation of child care projects. There is no state having
a district child care and protection ministry. Several ministries
such as Education, Health, Social Welfare and Home and the Directo­
rates or Departments thereunder hold charge of individual aspects
of child welfare administration under the statutory and non­
statutory areas. The observance of the International Year of the

14. It was later registered as a company under sec. 25 of the
Companies Act 1956 as a Charitable company.
Child has contributed much to the renovation of administrative organisation of child welfare in the states.

In many states till recently the juvenile justice was under the Home Ministry and the Prison Department. Now in most of the states, and Union territories the administration and control of the Children Act Institutions viz, the Remand/Observation Homes, Children Homes, Special Schools/Reformatories, and After-Care Institutions, is with the Directorate of Social Welfare.

At the District level there is a Social Welfare Officer as the main administrator of all welfare programmes including child welfare. The District Inspector of Schools and the Primary Education Officer respectively are charged to supervise the higher secondary and the primary education respectively in the district. Local authorities such as a District Board, Municipality and Village Panchayats establish the primary level schools but most part of the education up to higher secondary stage is under the private managements recognised, aided and administratively supervised by the State. Local bodies have their own education officers and inspectorate.

Vaccination is the responsibility of the local authorities which also provide certain general health services under the charge of the Health Officer. Local bodies establish and manage the maternity and child welfare centres. The District Chief Medical Officer heads the medical services in the district. Nearly all the district hospitals have separate maternity and child welfare and family welfare wards. A paediatric specialist is also invariably posted for the children's medicare. Certain well-placed hospitals have separate children's wards. Only a few hospitals have special facilities for the physically handicapped children.

Thus there is a state to village level hierarchy of education, health and social welfare authorities who look to their respective fields, the one unconcerned with the other. But there is no department or agency to co-ordinate between the education, services, the medical services and the child/social welfare services, at any level.

15. Except the co-ordination committees set-up for the purposes of ICDS Project if any, in the local area.
The Integrated Child Development Services (ICDS) Scheme, which is being taken up at present in 300 selected blocks is under the administrative control of the Ministry of Social Welfare and the Department of Social Welfare at the Union and State levels respectively. The scheme places great reliance on the involvement of voluntary agencies, community participation and coordination of different Ministries, departments and organizations. Coordination Committees are set-up at the central, state, district and project levels. ICDS is a central sponsored programme but is being implemented through the State Governments.

The District Social Welfare Officer is responsible for coordination of the implementation of the ICDS Scheme at the district level. A Child Development Project Officer is directly incharge of each ICDS project. The focal point for the delivery of the ICDS package of services is an anganwadi in every village. The anganwadi is run by an anganwadi worker who is invariably a lay man from the local community. He/she is supervised by Mukhaya Sewikas. The health infrastructure in the project area is strengthened by adding one Medical Officer, Lady Health Visitor, an Additional Auxiliary Nurse and a mid-wife to increase the number of primary health sub-centres to one in a unit of 5000 population.

At the local level the administrative set-up is deficient is not having a suitable alternative of child care in the form of any co-ordinated responsible authority or institution statutorily obliged to take care of the children, in all unprovided contingencies of different descriptions. There is no agency to keep a

16. The ICDS aims at providing a package of early childhood services of supplementary nutrition, immunisation, health check-up, referral services, nutrition health education and non-formal education to children below six years of age and expectant/nursing mothers.

17. This number is to be increased to 1000 in the 6th Five Year Plan.


19. The District Development Officer/District Planning Officer may be charged with such functions as an alternative, ibid.

20. Ibid. Supra note, 18.
vigil, whether the common and normal children are being properly
looked after by the parents or defunct guardians, whether they
are being sent to schools, whether they have been vaccinated or
immunised against the dangerous diseases, whether their nutri-
tion, health, recreation and shelter facilities are adequate, and
if they are handicapped, whether the special facilities made
available to them by the governmental or voluntary institutions
are amenable to them.

( ) Statutory Authorities for Child Care

Beyond the departmental set-ups pointed out above there
are certain statutory officers obliged to perform function pro-
tective to the children in the specific areas allotted them
under the related enactments. No authority may be pointed out,
which has a duty of general care and supervision in respect of
the norm children or children who remain outside the supervi-
sion of the courts. Most of the enactments relevant to children
do not contemplate any authority exclusively meant for the care
and protection of the child. However, there are certain agencies,
authorities created under statutes which also look after the
care and protection of the child. These authorities are:

1. The Probation Officer
2. Police Officers
3. Collector of District
4. Education Authorities
5. Superintendent to Vaccination
6. Other Administrative authorities

(1) The Probation Officers

The Probation Officer is the most important of all the
administrative child care and protection authorities at least
under four central statutes and all the state children Acts.
The central enactments imposing duties upon the Probation
Officers are the Children Act, 1960, the Suppression of
Immoral Traffic in Women and Girls Act, 1956, the Probation
of Offenders Act, 1958, and the Code of Criminal Procedure
21. Sec. 53.
2. Sec. 360.
Under certain State Children Acts the nomenclature 'Reformation Officer' or 'Child Welfare Officer' has also been used, but in most of such states Probation Officers appointed under the Probation of Offenders Act, 1958 discharge the functions allotted to the Reformation Officer or the Child Welfare Officer. For instance in Uttar Pradesh by a Gazette Notification 24 and Probation Officers in the districts have been appointed Reformation Officers under the U.P. Children Act, 1951.

On the recommendations of the Childrens Act Amendment Committee, 1963, the State of Maharashtra has by amending the Bombay Children Act, 1948 taken a lead in the matter and has not only redesignated the officers under the Act of 1948, but divided the functions of the Probation Officers into three parts. The Probation Officer is now designated as Child Welfare Officer (Probation). The two other officers created after the amendment are Child Welfare Officer (Placement and Liaison) and Child Welfare Officer (Case work). The last of the series replaces the Public Prosecutor dealing children's cases. The designation of other authorities under the Children Act has also been changed to give them a child welfare orientation 25. The model provided by the Bombay Children Act has, however, not been adopted elsewhere and the Probation Officer continues to enjoy its pivotal position.

The Children Act, 1960, imposes the following specific duties upon the Probationary Officers:

(a) To inquire, in accordance with the direction of a competent authority, into the antecedents and family history of any child accused of an offence, with a view to assist the authority in making the inquiry,

(b) To visit neglected and delinquent children at such intervals as the Probation Officer may think fit.

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24. See Sec. 360.
26. e.g. The Chief Inspector of certified schools will be known as the Director Child Welfare and the Deputy Inspector as Deputy Director (Child Welfare).
To report to the competent authority as to the behaviour of any neglected or delinquent child,

to advise and assist neglected or delinquent children and, if necessary, endeavour to find them suitable employment,

where a neglected or delinquent child is placed under the care of any person on certain conditions to see whether such conditions are being complied with, and

to perform such other duties as may be prescribed.

Thus the Probation Officer has been imposed with three fold functions under the Children Act viz. investigative, supervisory and advisory. The Probation Officer exercises investigatory functions primarily in respect of the delinquent children. The Children Act, 1960 imposes a duty upon the police officer incharge of the police station to which the child is brought to inform the Probation Officer as soon as may be, after a child accused of some offence has been arrested. It enables the Probation Officer to obtain information regarding the antecedent and family history of the child and other material circumstances likely to be of assistance to the Children's Court for making the inquiry\(^{27}\). Directions may also be given by the Welfare Board to makes such investigation\(^{28}\).

The supervisory functions of the Probation Officer cover at least three areas. First, such officer is obliged to inspect the Children Act institutions and report to the administration about the due observance of the rules by these institutions\(^{29}\). Secondly, he may be ordered to supervise the delinquent children released on probation\(^{30}\) or on payment of fine only, by the Children's Court\(^{31}\), or to supervise the neglected children placed in the custody and care of a parent, guardian or other fit person, by the Welfare Board\(^{32}\).

\(^{27}\) Sec.19(b), Children Act, 1960.

\(^{28}\) Sec.53(2) ibid.

\(^{29}\) Sec.53(1) ibid.

\(^{30}\) Sec.21(2) ibid.

\(^{31}\) Sec.21(2) ibid.

\(^{32}\) Sec.16(2).ibid.
If there is any breach in observing the conditions imposed by the Children's Court or the Welfare Board as the case may be, in respect of a child, or the delinquent child has not been maintaining a good behaviour during the period of supervision, the Probation Officer is obliged to report about such breach of the condition or misbehaviour, to the Court or the Board, which shall then make a further inquiry whether the child should remain under probation or be sent to a Children Home if he is a neglected child or a Special School if he is a delinquent child.  

Thirdly, the Probation Officer is obliged to visit the neglected children and the delinquent children placed in the Children Act Institutions at such intervals, as he thinks fit and report to the competent authority regarding the behaviour of any neglected or delinquent child. Other duties may also be imposed upon such officer under the rules.

None of the Acts, providing for the appointment of a Probation Officer lays down any specific qualification for his appointment. Being the sole responsible officer obliged to obtain information regarding the antecedents and family history of the child and other material circumstances likely to be of assistance to the Children's Court for making the inquiry and where the child is released on probation, to keep a watch on his activities, the role of probation officer assumes importance. He owes a double allegiance. On the one hand, he is answerable to the court, and on the other he must look to the interests of the probationer child. The State must see to it that the probation services, are equipped with technical and scientific analysis of character and also of behaviour patterns. It is also desirable that the Probation Officer has some knowledge of child psychology and child welfare.

33. Sec.16(3).
34. Sec.73(b) and (c) ibid.
35. The matter is left to be provided by rules, Sec. 59(2)(b).
37. The Government of Maharashtra is following a policy of recruiting Probation Officers who are trained in schools of social work.
It is further submitted that since a Probation Officer is required to perform functions under the Code of Criminal Procedure, the Probation of Offenders Act and is SITA even with respect to adults, hardened criminals and are also attached to the prison staff, for human and psychological reasons there should be different Probation Officers in respect of children. Since the functions of a Probation Officer are manifold, division of functions should be made under the Central and all the State Children Acts on the pattern provided by the Bombay Children Act as amended after 1968. The nomenclature of the Probation Officer should also be changed to Child Welfare Officer.

(2) Police Officers

A Police Officer is an important public authority recognised under the Children Acts and general criminal law, with whom a delinquent child or a neglected child comes into contact. It is he who apprehends and arrests a delinquent child or takes charge of a neglected child and then produces him before the Children Court of the area or the Welfare Board, as the case may be. The Children Act, 1960 not only specifically empowers the police officers in general to take charge of a child, who in the opinion of such officer is apparently a neglected child, but also prescribes a definite procedure to be observed in relation to such charge or arrest. Two courses are open to the police officer in case of neglected children. When information is given to an Officer Incharge of a police station about any neglected child found within the limits of such station, he has to enter the substance of such information in a book to be kept for the purpose and either take charge of the child or decide not to take charge of him. In case no charge is taken of the child, a copy of the entry has to be forwarded to the Welfare Board. Where in the opinion of any Police Officer, a neglected child has a parent or guardian having the actual charge of or control over the child, the Police Officer may instead of taking charge of the child, make a report to the Welfare Board for initiating an inquiry regarding that child.

39. Sec. 13(2).
40. Sec. 14(2).
Where the Police Officer takes a neglected child into his charge, he has a duty to produce the child before the Welfare Board within a period of 24 hours of assuming such charge, excluding the time necessary for the journey from the place where the child had been taken charge of, to the Board. Between the time of taking the charge and his production before the Welfare Board, the Police Officer is obliged to keep such child either with his parent or guardian or at an observation home, but no case in a police station or jail.\(^1\)

In case a child alleged to be delinquent and arrested by a Police Officer, the Children Act empowers the Police Officer in charge of police station to release such child on bail with or without surety, whether the offence alleged to have been committed is bailable or non-bailable. But the Police Officer is obliged not to release such child on bail if there appears a reasonable ground for believing that his release is likely to bring him into association with any reputed criminal or expose him to moral danger, or that his release would defeat the ends of justice.\(^2\) Where the child, alleged to be delinquent, is not so released on bail, he has to be kept either in observation home or a place of safety in the prescribed manner or in no case in a police station or a jail until he can be brought before the Children's Court.

Where a child is arrested the Police Officer in charge of the police station to which the child is brought, has a further duty of giving information of such arrest as soon as may be, to the parent or guardian of the child, if he can found and direct him to be present before the Children's Court before which the child will appear. He has also to inform the Probation Officer of the area about such arrest in order to enable him to conduct his preliminary investigation regarding the antecedents and family history etc. of the child.\(^3\)

The primary functions through which a Police Officer comes into contact with a juvenile delinquent are (i) apprehension or arrest (ii) detection and escorting, (iii) investigation, and (iv) after care or watch on release.

\(^1\) Sec.13(4), The Children Act, 1960.
\(^2\) Sec.18(1).
\(^3\) Sec.19(b).
The powers of investigation being the same as conferred by the general provisions of the Code of Criminal Procedure in this respect the Police Officer may have to carry the juvenile delinquent from place to place during investigation and interrogate, seize property involved in the offence, if any, and secure evidence either through confession of the delinquent child or with his assistance or from other sources. Then in order to protect the community's interest, he may have to cause, maintain or continue some sort of a watch over the activities of the juvenile delinquent after his release.

Such long association of a child with the police is bound to leave an indelible impression on the child. If he is intimidated or frightened, he is not apt to respond very openly and willingly to efforts to help him. On the contrary he may become defiant and rebellious or withdrawn and unreasonable. Here then lies the necessity for training. The Police Officer who apprehends a child must know how to work with the child. He must know something of child psychology and the juvenile philosophy. This leads to the need of a proper child orientation course to a section of the police force who are to be assigned the job of dealing with the children. For these reasons, it is submitted that a separate Juvenile Police Bureau should be established.

The use of handcuffs by the police in arresting the juvenile delinquents has also been objected to. The Children Act, 1960 is silent on the point. The Delhi Children Rules framed under the Central Act provide that the children shall not be handcuffed. Under the State Children Acts the process varies from state to state.

It is submitted that a uniform policy should be adopted under all the Children Acts. On the one hand it is desired to

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44. Mahmood Bin Muhammad, Police and the Children Act, Role of the Police in dealing with juvenile delinquency, SOCIAL DEFENCE JOURNAL, OCTOBER, 1979, p.35.

45. In Himachal Pradesh, hand-cuffs are permitted only when the juvenile is of a violent nature. In Gujarat, rubber or leather straps are known to be used. In Madras no juvenile can be hand-cuffed. The other State Acts are silent on the point.
treat a juvenile delinquent differently from an adult, on the other the very first step of being arrested and hand-cuffed is employed. This is a practice against the juvenile philosophy and use of hand-cuffs should be specifically forbidden except under rare cases of violent delinquents.

Two more aspects of the police role is the use of uniform by police dealing with juveniles, and the taking of finger prints and photo of child. In the juvenile courts of England, the police officers on duty generally do not wear uniform. There is no law as such but it is only a matter of discretion. It is a controversial issue. Those who plead for the uniform argue that the public accepts a police officer as a helping man when they see uniformed officers engaged in constructive work. Those who wish to prohibit it hold it to be against the juvenile philosophy of a differential treatment to the child delinquents and look to delinquency as a disease. They wish to avoid any method which may harden the child’s deviant behaviour, mentality or affect his psychology. Therefore, they pleaded for an informal method simply because it concerns a juvenile offender. Those against it call it as perpetuating a stigma upon the child, of their involvement in a criminal offence.

What is important, it is submitted, is that this kind of record should not be used against the juvenile or the record should not stand in the way of his rehabilitation and this is achieved by and large by section 25 of the Childrens Act, 1960. The question was discussed at length at the general Assembly Session of the International Criminal Police Organisation in 1961, wherein it was resolved that finger printing and photographing of juvenile delinquents should be continued as the same do not in any way infringe upon human dignity.

The appropriate course seems to be to add a proviso in the Children Acts to the effect that finger prints and photographs of the delinquent may be taken after obtaining permission of the

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47. Mehmood Bin Mohammad Supra, p.39.
48. Ibid. p.41.
Children's Court, but in no circumstances the record should be utilised in matters relating to the rehabilitation of the child, provided that if it is found by the Police Officer or the court that a juvenile who has been printed was not involved in the case, all prints should be returned to the Children's Court for destruction.

(3) Collector of a District

The Guardians and Wards Act, 1890, entitles the Collector of the District or other local area within which a minor ordinarily resides or in which he has property or the Collector having authority with respect to the class of persons to which the minor belongs to move an application to the District Court for an order appointing or declaring a guardian of the person or property or both of a minor.

The Collector has been so defined under Section (6) of the Guardian and Wards Act that it also includes any officer whom the State Government, by notification, may by name or in virtue of his office appoint to be a collector in any local area or with respect to any class of person for all or any of the purposes of the Guardians and Wards Act, 1890. Thus it lies within the power of the State to appoint a Collector for taking action under the said Act in respect of any class of persons. Such Collector may invoke the jurisdiction of the court, either for his own appointment as a guardian or for the appointment of some other person.

It is doubtful whether a collector may apply for the appointment of a child welfare institution, or Home, even if registered under the Orphanages and Other Charitable Homes (Supervision and Control) Act, 1960, as the guardian of a minor.

The view of the Calcutta, Bombay and Allahabad High Courts.

49. Under the Guardians and Wards Act, 1890, a Collector means the Chief Officer Incharge of the revenue administration of a district, and includes any officer whom the State Government, by notification in the official Gazette may, by name or in virtue of his office, appoint to be a collector in any local area or with respect to any class of persons, for all or any of the purposes of this Act, Sec.4(6).

50. Asha Latha Roy v The Society for the Protection of Children in India, 1930, Calcutta; Sydney High Mc Sweeney v Margaret Arbuthnot, 1931, Calcutta; 563.

51. Basayya Salva Basayya v Baselingayya, 1948, Bombay, 150.

is that an institution cannot be appointed as guardian while the
Vindhya Pradesh High Court has held it in the affirmative.

No doubt a court may appoint or declare a Collector in
virtue of his office to be the guardian of the person or property
of a minor and it is also provided that in such a case the
Collector shall be subject to the control of the State Government
or any other authority as the Government by Notification in the
official Gazzette appoint in this behalf but already being over
burdened with his other official duties and even otherwise it
cannot reasonably be expected that a Collector shall extend his
personal care and love and affection to the ward. We cannot
compare a Collector with a parent or any other guardian of the
person of a minor. Custody being incidental to guardianship, is
it feasible for the collector to have a personal custody of a
child? Will the Collector keep such children in his bungalow; if not, where he shall keep them, is an important question on
which the Guardians and Wards Act is silent?

There was no answer to such questions in 1890, when the
Guardians and Wards Act was passed. Today, however, such a child,
if he comes within the definition of a neglected child or a child
in need of care and protection, may be committed to a children
home under the relevant Children Act as a neglected child though
the guardianship shall continue to vest in the Collector. In
those cases where the Collector deems it fit to himself apply for
being appointed as guardian of a minor the best course seems to
be to allow the appointment of some recognised child welfare
institution as the guardian of the person of such minor. This
lacuna in the Guardian and Wards Act needs to be removed.

Further, the provision in the Guardians and Wards Act,
1890, entitling the Collector to move the court for appointment
or declaration of a guardian of a minor is an enabling provision

53. Lakshman Temon Tewari v State through Mahilashram, Rewa,
1955 V.p.3.
54. Sec.18 Guardians and Wards Act, 1890.
55. Sec. 23 Guardians and Wards Act.
hardly invoked in practice. These provisions do not create any duty of the Collector to move the court in such cases, nor to keep a watch on the welfare of all the children in his area. To make the provisions meaningful an obligation should be imposed on the Collector or some alternate administrative officer to invoke the District Court's jurisdiction, in respect of guardianship, custody or any incidental matters touching upon the welfare of the child, in all cases where the Collector suo-moto or on information received by him, finds that it would be in the best interest of the minor so to do.

(4) Education Authorities

The Primary and other Education Acts of the different States provide for different organisational set-ups for their respective territories and create authorities to oversee the due implementation and administration of the compulsory elementary education scheme of the State. For instance in Uttar Pradesh the Basic Education Act, 1972 charges the Basic Shiksha Prishad, a state level committee, with the entire responsibility of elementary education in Uttar Pradesh. At the district level there are the District Basic Education Officers and the Additional District Basic Education Officers (Women), who regulate the basic education for the boys and girls respectively in the district. Below them the administration is divided into branches, one for the urban area and the other for rural area. In the urban area there are two officers of equal rank viz. the Superintendent of Education and Superintendent of Education (Women) who are assisted in their duties by the Attendance Officers. For rural areas the Deputy Inspector of Schools and the Deputy Inspector of Schools(Women) supervise education administration. Below them Sub-Deputy Inspector of Schools and the Sub-Deputy Inspector of Schools(Women) perform similar duties at the block levels. The set-up of administrative authorities in the area of child education varies from state to state.

57. Sec. 10, Ibid.
58. Sec. 11, Ibid.
Compulsory vaccination of children is one of the important public health measures adopted by the State. The Central Vaccination Act 1880 and the various State Vaccination Acts cast the duty of overseeing the vaccination of all unprotected children upon the Superintendent of Vaccination within the city allotted to him. He has a duty to serve a notice on the rents or guardians who have failed to vaccinate their children. If the parent or guardian fails to get the child vaccinated in spite of the notice, the Superintendent is duty bound to report the matter for the orders of the Magistrate. Such other routine duties are also imposed upon him under the Act.

(6) Other Administrative Authorities

The Employment of Children Act 1938 provides for the appointment of Inspectors for the purpose of securing compliance with the provisions of the Act and confers powers upon him for the discharge of his functions. As has been pointed out there are only a few authorities exclusively obliged to keep a watch on the care, welfare and protection of children. Certain duties in respect of children also fall as a part of their other duties. For instance, under most of the labour laws, i.e., the Factories Act, 1948, the Mines Act, 1923, the Plantation Labour Act, 1951 etc., the Inspectors appointed under the respective Acts for supervising the compliance of all the requirements under the particular Act, also oversee that the employer does not infringe the prohibitions of employing children below the prescribed age, their nature of work, maximum working hours, shift arrangements are in accordance with the laws and the requirements of the medical examination etc. are being duly observed.

There are certain penal enactments implementing a social policy, which do not provide for any particular authority to oversee their due observance, leaving it to the general administration. The different states—Prevention of Smoking Act, The
Young Persons (Harmful) Publication Act, The Prevention of Begging Act etc. are some such Acts. The Child Marriage Restraint Act, which is an important piece of legislation does not contemplate for any specific authority which may be obliged to take action against those persons who commit a breach of the law.

Some of the States have taken the initiative to appoint child Marriage Restraint Officers for the purpose. But such officers are the need of every state. It is submitted that the Child Marriage Restraint Act be modified to include the provisions for appointment of such officers. A common child welfare authority is created to watch the implementation of the entire legislation relating to children.

(c) **Statutory Institutions**

Institutionalisation as an alternative to parental care is a modern concept. A modern institution of children not merely provides a residential care and protection to the children received by it but it is equipped to treat, train, reform and rehabilitate each child, in the context of his individual needs, aptitudes and the social requirements.

An institution housing the delinquent children is not today a children's jail to protect the society from the juvenile delinquents, it is a residential special school with boarding and lodging attached to it, providing facilities for formal education, recreation, cultural activities and vocational training and also a clinic where psychotherapeutic treatment is provided, leading to correction of the social disease and reformation of the child into a socially and morally healthy citizen. A modern institution for neglected children provides them a substitute for their home and in some cases a children's home proves to be a better place than their own home.

The Indian law is gradually responding quite nearly to the requirements of a modern children's institution in theory atleast, if not if so much in practice. Four major types of institutions have been contemplated under the Children Acts and the Suppression of Immoral Traffic Act, 1956 viz. (i) Short term institutions, (ii) Long term institutions, (iii) Fit person institutions, (iv) After-care organisations.
The Children Acts empower the state governments to establish and maintain such short-term and long-term institutions or recognise and certify as such institution, any home or institution, established and maintained by some individual or voluntary organisation which in the opinion of the State or Administrator is 'fit' for temporary or long-term reception of the neglected or the delinquent children. Similar powers have been conferred under the Suppression of Immoral Traffic (In Women's and Girl's) Act 1956 for recognising institutions as 'protective homes' to receive the girls apprehended under the Act. Such institutions are generally called 'Private Certified Institutions' or 'Fit person institutions'. Under the Bombay Children Act, 1948, these are now called as 'Approved Institutions'. Likewise, the Administrator may by rules provide about the management, the standards and nature of services to be maintained at such institutions and the circumstances under which and the manner in which, an institution may be recognised or certified as such or when the certification or recognition may be withdrawn.

The pattern of management of all the Children Act institutions established and maintained by the state is nearly the same. Every one of these institutions is under the management of a Superintendent and a committee of visitors who together are deemed to be the managers of the institution. The Children Act, 1960 and the Children Acts of the States of Assam, Bihar, Jammu and Kashmir, Kerala and Madhya Pradesh empower the State governments to make rules for the management of all categories of the institutions.

Extensive provisions exist under the State Acts for the inspection and supervision of these institutions. A Chief Inspector assisted by a team of Inspectors and assistant Inspectors is appointed by State government for the purpose. Medical Inspectors are also appointed under certain Children

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64. The 'fit person institution' certified by the Central or State Governments to receive any category of children are to be managed by a governing body deemed to be Managers of the school (Sec.48(2) The U.P. Children Act, 1951.
Acts to report to the Chief Inspector on the health of the inmates and the sanitary conditions of the schools. Under the Central Act and the Children Acts of the States of Assam, Bihar, Jammu and Kashmir, Kerala and Madhya Pradesh, the matter of inspection etc. is left to be provided by rules.

(A) Short-Term Institutions

The Children Acts have created separate institutions to receive the neglected and delinquent children during the pendency of an enquiry against them by the competent authority whereafter they are either restored to the custody of their parents or guardians or ordered to be sent to a long-term institution. Under the Children Act, 1960 a short-term institution is called an 'observation home'. Certain state children Acts use a different nomenclature for such short-term institutions e.g. Remand Home or a place of safety.

The Children Act, 1960 provides that every neglected child taken charge of by a Police Officer or any other authorised person shall, unless he is kept with his parents or guardians, be sent to an observation home, until he is produced before a Welfare Board. Under no circumstances such a child is to be kept in a police station or a jail. The neglected child shall unless otherwise ordered by the Welfare Board, remain in the observation home during the pendency of inquiry against him. Similarly a delinquent child arrested by a Police Officer and not released on bail by the Police Officer in charge of the police station or afterwards by the Children's Court, has to be kept either in an observation home or 'place of safety' but in no case in a police station or jail.

65. Sec. 52 U.P Children Act, 1951, Sec. 50 The East Punjab Act, 1949.
66. Assam, Madhya Pradesh and Kerala Children Acts also provide for observation homes.
70. Sec. 19(2) and (3) ibid.
The Central Children Act defines an 'observation home' as any institution or place established or recognised by the government as an observation home for the temporary reception of the children during the pendency of an inquiry regarding them. Every observation home to which a child is sent under the Children Act, has not only to provide the child with accommodation, maintenance and facilities for medical examination and treatment, but also make arrangements for his useful occupation. There are no such requirements for a place of safety.

A place of safety may or may not be an institution. It means a place or institution (not being a police station), the person in charge of which is willing temporarily to receive and to take care of a child and which in the opinion of the competent authority may be a place of safety for the child. The term 'place of safety' under the U.P. Children Act, 1951 also includes any observation home or any orphanage, hospital or any other suitable place. Where any of these is not available a place of safety in case of male child includes even a police station, provided arrangements are available or can be made for the safe keeping of the child separately from adult offenders. The Andhra Pradesh (Telangana Area) Children Act, 1951 and the East Punjab Children Act, 1949 are also on the pattern of the U.P. Act, except that they exclude a 'remand home' or 'an observation home' from the category. Non-availability of any arrangement should not be a valid defence for the continuing inclusion of police station as a short-term institution. It is against the modern juvenile philosophy. The very atmosphere of a police station is criminal oriented. The definition of the term should be modified and brought at par with the Central Children Act. States like Bombay have initiated the process but some other states as Punjab and Uttar Pradesh lag behind in this respect.

71. The Girashtra Children Act, 1954 uses the same definition for a 'remand home'.
72. Sec.11(3) ibid.
73. Sec.2(nn) Children Act, 1960.
74. Section 2(9) U.P. Children Act, 1951.
The recognition of this type of short-term institution different from an observation home while serving the similar purpose of a temporary custody, is to provide an alternative to the observation home. While an observation home is a formal institution providing defined facilities to the inmates the term 'place of safety' may be interpreted widely. It may perhaps include a private home of some individual. The only test of its fitness being the opinion of the competent authority. It may well be a school hostel the warden of which is ready to take the responsibility of safety of the child. Equally it may be an institution licenced under the Orphanage and Other Charitable Homes (Supervision and Control) Act, 1956.

The objective behind providing a short-term institution is to make available the state care and protection to the children in dire need of it, at the earliest. To a child without means it provides immediate maintenance, to the child in physical or moral danger, it provides a safety. The juvenile delinquents lodged in a short-term institution are saved of an atmosphere of hardened adult criminals. The short term institutionalisation provides an opportunity for the close diagnosis of the children. At many places juvenile Beauxre are attached to observation homes. The Probation Officer too utilises the stay to make a thorough social investigation of the child. The social worker, the psychologist and the doctor of the institution too avail the opportunities to examine and make a proper study of the child. The case file prepared helps the competent authorities to prescribe suitable measures for each child. Short term institutions are thus an important link between the beginning of the process of state intervention in the affairs of the child and the ultimate decision of a proper measure for the child by the competent authority.

At the long term level, many Children Acts now provide for separate types of institutions for the neglected children and the delinquent children. But such distinction is not maintained

75. Juvenile Beauxre exist mostly in the big cities e.g. Bombay, Calcutta and Madras.

76. e.g. the Children Act, 1960.
at the level of short term institutions. It is submitted that an orphaned child or a child of inadequate parents cannot be compared to a delinquent child or even a uncontrollable child. Placing of the children of such different categories at the same place increases the possibility of contamination of the atmosphere of the short-term institution to the detriment of the neglected children, who may catch some delinquency infection from them.

It being not essential that every child in the observation home must be sent to a long-term institution, the chances of delinquency infection returning to the society, cannot be ruled out. No time limit for the inquiry being fixed under the children Act, even the temporary stay becomes long enough to leave a bad impact upon the innocent inmates. If we treat child delinquency as a social disease, all chances of its infection must be weeded out and in any plan of reform, the two categories of children should not be placed under the same roof, even during their temporary stay.

(B) Long-Term Institutions

Different types of long-term institutions have been set up under several Children Acts, Borstal schools Acts, the Reformatory Schools Act, 1897 and the Suppression of Immoral Traffic in Women and Girls Act, 1956. These institutions may be classified as follows:


(i) Reformatory Schools: A Reformatory School is the oldest type of long term institution for the juvenile delinquents. Such schools were created by the Reformatory Schools Act, 1897. The reformatories established under the Act were in the nature of correctional institutions for those convicted youthful offenders who were below the age of fifteen years, who instead of being sent to prison, were ordered to be retained in the reformatory schools by certain specified courts in their discretion. The period of detention in a reformatory school could not be less than three or more than seven years.
The Reformatory schools Act does not give any definition of a 'reformatory school' but prescribes the requisites to be provided in it, which include: sufficient means of separating the intimates at night, proper sanitary arrangements, water supply, food, clothing and bedding for the youthful offenders detained therein, the means of giving industrial training, an infirmary or proper place for the reception of such youthful offenders when sick. Such school could be established by order of the state government, subject to a certification of their fitness by the Inspector General under the Act.

When Children Acts were passed by the States one after the other, the new institutions called the certified schools and special schools replaced the reformatory schools. Since a juvenile delinquent has now to be dealt with according to the provisions of the Children Acts, most of which prohibit imprisonment as a punishment for juvenile delinquents, therefore, the Reformatory Schools Act has become redundant in all such states.

(ii) Special Schools: The long-term institutions established and maintained to receive the delinquent children are called as 'Special Schools' under the central Children Act and the Children Acts in the states of Assam, Bihar, Jammu and Kashmir, Kerala, Madhya Pradesh and Rajasthan, which follow the pattern of the central Act. Under these Acts every special school to which a delinquent child is required not only to provide the child with accommodation, maintenance and facilities for education but is also required to provide them with facilities for the development of their character and abilities and give them necessary training for their reformation and has also to perform such other functions as may be prescribed to ensure the all round growth and development of their personality. One of the objectives of the Act being reformation of the juvenile delinquents emphasis is laid on the nature of the training to be imparted to such children.

(iii) Children's Homes: The central Children Act and the state Children Acts following its pattern referred to above, create a

76. Section 6, The Reformatory Schools Act, 1897.
77. Section 2(g) Children Act, 1960.
78. Section 10, Ibid.
new institution called 'Children's home' to exclusively receive the neglected children. Such a home is required to arrange for the accommodation, maintenance and education facilities of the inmates and has to provide facilities for the development of their character and abilities and the training necessary to equip such children with the ability to protect them against any moral danger or their exploitation. Besides these all other facilities which ensure an all round growth and development of the personality of the neglected children have also to be made available to them. All the State Acts do not make available separate institutions to the neglected children.

(iv) Certified/Approved/Industrial in Institutions

Many of the State Children Acts provide only one type of long term institution for the children of both the categories viz. the delinquent and the neglected, though the nomenclatures used under those Acts vary, from state to state. For instance, the East Punjab Children Act, 1949 and the Karnataka Children Act, 1964 provide for 'certified schools' for all types of children. They are also called as 'Industrial Schools'. Under the U.P. Children Act, such institutions are termed as 'Approved schools'. Under the Bombay Children Act, 1948, the old term 'certified school' has now been replaced by the term 'Approved Centre' and is used to mean an industrial school or other educational institution established and maintained by the State Government.

The East Punjab Children Act\(^{81}\) and the U.P. Children Act\(^{82}\) also empower the State government to establish 'auxiliary homes' for the reception of any inmates or any classes of inmates of approved schools. The state government may also certify and such homes any other home which might have been established or which may be established by any other agency. Where a certificate is so granted by the state to an institution established and maintained by a voluntary organisation, such auxiliary home is to be treated at par with an approved school and has to provide the same

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\(^{79}\) Section 2(f) Children Act, 1960.

\(^{80}\) Section 3(3) Ibid.

\(^{81}\) Section 55 East Punjab Children Act, 1949.

\(^{82}\) Section 57 of U.P. Children Act, 1951.
facilities and perform similar functions as are attached to an approved or a certified school.

Strange as it may appear to be, some Children Acts give a discretion, to the Managers of approved or certified schools to receive or refuse to receive any child or youthful offender proposed to be sent to them in pursuance of the relevant Act. But at the same time these Acts provide that if such institution once receives any such child or youthful offender it shall be deemed to have undertaken to teach, train, lodge, clothe and feed him during the whole period for which the child is liable to be detained in the school, or until the certificate of approved or certified school is withdrawn and become ineffective.

There is a third category of states which provide separate institutional facilities to the neglected and the delinquent children but the nomenclature of the institution is different from the central Children Act. For instance, under the Tamil Nadu Children Act, Senior Certified Schools are meant for training of youthful offenders while the Junior certified schools are meant for training and protection of destitute children. Similar classification is adopted under certain other state Children Acts e.g., those of Hyderabad, West Bengal and Haryana. The West Bengal Children Act distinguishes between delinquent and neglected children only above 14 years of age, and provides Borstal schools for delinquent children and Industrial schools for the neglected children, only above this age, while both the categories of children below 14 years are to be sent to Reformatory schools.

In certain States and in certain districts of States where the children Act institutions have not so far been established or recognised, the children whether delinquent or neglected are kept either in a separate portion of the prison or in a reformatory school, if there be any.

In the States of West Bengal and Jammu and Kashmir in order to give semblance of conforming to the requirement of remand homes for children the authorities have pronounced a part

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83. e.g. Section 58 of the U.P. Children Act, 1951, the East Punjab Children Act, 1949, Section 58.
84. Ibid.
85. West Bengal Children Act, 1959.
of the jail itself as a home for children. It is reported that of all the States, West Bengal leads with more than 500 kids below 16 yrs. convicted and 419 under trials kept in jails in appalling conditions, for offences ranging from minor to more serious kinds.

A recent empirical study of the Haryana Children Act Institutions revealed that in 1979 over a hundred children were detained in jails in the state with grown up criminals waiting for their trial. The figures of children under 16 yrs of age still kept in jails from some of the other states are: Bihar 428, Andhra Pradesh 337, Assam 165, Madhya Pradesh 239, Orissa 147, and Uttar Pradesh 97.

Eight of the States have no remand homes at all, these are Assam, Haryana, Meghal, Orissa, Sikkim, Kerala, Himachal Pradesh and Tripura. Two i.e. Jammu and Kashmir and Manipur have one home each in the entire state and West Bengal has two homes only. Of the Union Territories, five have no remand homes at all and four have just one home each. These institutions fail to cope with the requirement of about 1,50,000 children apprehended by the police every year.

(v) After Care organisation: An after care organisation is the last link in the efforts of care, training, and rehabilitation of the neglected or delinquent institutionalised children. It is related more to rehabilitative aspect of the children released from the Children Act institutions either on ceasing to be a child or otherwise. Mere formal education and vocational training or treatment and reformation of the socially handicapped children provides no guarantee of their rehabilitation when such children come out of the institutional care. The after-care organisations help such children in their rehabilitation efforts in many ways and provide an alternative care in the meantime. The Children Act, 1960 and many state Children Acts e.g. Assam, Bombay, Bihar, Jammu and Kashmir, Karnataka, Madhya Pradesh, Rajasthan, Saurashtra and West

89. Times, dated 6th Augu .
Bengal provide for the creation and regulation of after-care institutions. But the older Children Acts do not provide for after-care organisations e.g. the East Punjab Children Act, 1949, the U.P. Children Act, 1951 and the Tamil Nadu Children Act, 1920.

After care has been defined under the Bombay Children Act, 1948 as care during the period of release on licence of a child from an approved centre or approved institution or any other institution. The Bombay Act also empowers the State to establish and maintain or recognise any institution to be an After-Care hostel. The central Children Act empowers the administrator to provide by rules for the establishment, management and functions of an after care organisation, the circumstances in which and the conditions subject to which any institution may be recognised as an after-care organisation such rules may also provide for the standards and the nature of services to be maintained by such after-care organisations. A scheme of after-care programme to be followed by such after-care organisation, for the purpose of taking care of children leaving the children homes or special schools and for the purpose of enabling them to lead an honest, industrious and useful life has to be got approved.

The rules framed under the Children Act 1960, oblige the Probation officer to prepare and submit a report in respect of each child prior to his discharge from a children home or special school, regarding the necessity and nature of after-care of such child, the period of such after-care, supervision thereof. The Probation officer is also obliged to submit a report on the progress of each such child.

(vi) Borstal Schools: Borstal Institutions have been created by certain states Children Acts for detaining convicted youthful offenders between the age of fifteen years and twenty one years. The Bombay Act defines a Borstal as follows:

91. The Assam Children Act, 1970, Sec.12; Bihar Children Act, 1970, Sec.12; Haryana Govt., J. and K. 1970, Sec.12, Sec.11; Karnataka Children Act 1954, Sec.11; M.P. Bal Adhikarnyam 1970; Rajasthan Children Act 1970 Sec.12; Savasthra Children Act, 1954 Sec.12; West Bengal Children Act, 1959, Sec.12.
92. Section 2(a) and 39(g) Children Act, 1960.
93. Section 12(d) Ibid.
94. Section 12(e) Ibid.
95. e.g. The Bombay Borstal Schools Act, 1929, The Punjab Borstal School Act, 1926.
96. Section 6, The Bombay Borstal Schools Act, 1929.
Borstal school means a place in which young offenders, whilst detained in pursuance of this Act, are given such industrial training and other instruction and are subjected to such disciplinary and moral influences as will conduce to their reformation and the prevention of crime (97).

The Borstal schools thus aim to educate, train and reform the adolescent offenders even morally, so that when they come out they do not adopt the path of crime again. To meet this purpose certain integrated programmes are adopted. For instance, the Borstal Institution and juvenile jail, Faridkot in Punjab state, arranges for formal education up to matriculation and also provides facilities to pursue higher education. P.T. Gymnastics and Yogic exercises are given in the morning by an Instructor. Recreation and play arrangements are also made by providing outdoor games facilities like volleyball, basketball, and football. Industrial and crafts training facilities are available inside the borstal and include carpentry, weaving, dary making, steel furniture making, textiles, tailoring, soap making, blacksmithy, electric welding, printing press, and stenography, etc. Weekly seminars are held on religious, moral and social subjects. Thus the Borstal aims to properly channelise the energies of the youthful offenders 98.

(vii) Protective Homes and Correctional Institutions : The Suppression of Immoral Traffic in Women and Girls Act, (SITA), 1956 applies to girls below twenty one years of age and consequently it becomes relevant in those states where a child is defined to mean a person below the age of fourteen years or fifteen years or sixteen years as the case may. SITA creates, two types of institutions namely 'Protective Homes' and 'Corrective Institutions' to provide care and protection to girls leading an immoral or depraved life of prostitution or is in danger of entering such profession 99.

97. Section 3(a) Ibid. Also see section 2 (1) of the Punjab Borstal Act, 1926.
99. Section 16(b) SITA.
A protective home and a corrective institution have respectively been defined in the Act as follows:

Protective home means an institution, by whatever name called (being an institution established or licenced as such under section 21), in which women and girls who are in need of care and protection may be kept under this Act, but does not include:

(i) a shelter where female under trials may be kept in pursuance of this Act, or
(ii) a corrective institution.

A corrective institution means by whatever name called (being an institution established or licenced under section 21) in which women and girls who are in need of correction may be detained under this Act, and includes a shelter where female under trials may be kept in pursuance of this Act.

A girl in need of care and protection or correction may, after an inquiry be ordered by the Magistrate to be detained in a protective home or a corrective institution for a period of not less than one year and not more than three years, as may be specified in the order.

A protective home or a corrective institution can either be established and maintained by the state government or a licence may be issued to some person or voluntary organisation to set up such institution, subject to the fulfilment of conditions prescribed by rules or those imposed by the licencing authority. The Act prefers the appointment of a woman as a Manager of such institution, wherever it is practicable.

The above survey reveals that in respect to the institutional treatment of children the provisions of the various Children Acts are not uniform.

There is a variation under the central and the different state Children Acts on the minimum age for institutionalisation and the duration for which a child may be sent to these institutions.

100. Section 2(g) SITA.
1. Section 2(aa) SITA.
Under the Children Act, 1960 and the Assam, Jammu and Kashmir, Karnataka and Kerala Children Act, the children courts and welfare boards may order a child to be institutionalised till he ceases to be a 'child' under the Act. Under these Acts while a girl remains a child till she completes her age of eighteen years, a boy ceases to be a child on the completion of sixteen years. The Acts however, empower the competent authorities to extend in special cases the period of stay in the institution to a maximum of eighteen years in case of boys and twenty years in case of girls. Where it is found expedient to do so the period may be reduced by the competent authority.

A minimum age has been prescribed under certain state Children Acts for the purpose of institutionalisation. The East Punjab Children Act, 1949 lays down that a child under the age of eight years shall not be ordered to be sent to a certified school, unless no other fit person or suitable custody is available. Under the U.P. Children Act, this age is ten years. The Children Act, 1960 and the newer children Acts do not lay down any minimum age for the purpose.

Some of the state Children Acts, e.g. Andhra Pradesh (Telangana Area), Punjab, Madhya Pradesh, Uttar Pradesh, and West Bengal do not maintain a distinction between boys and girls for extension of the period of stay at the institutions. They allow it to be extended up to eighteen years. This age is twenty one years under the Bihar and the Saurashtra Children Acts, while it is sixteen years only under the Andhra Pradesh (Andhra Area) Children Act.

In case of children suffering from an infectious or contagious diseases, special provisions have been included under most of the Children Acts. The Children Act, 1960 provides that when a child who has been brought before a competent authority is found to be suffering from a disease requiring prolonged medical treatment...
or physical or mental complaint that will respond to treatment, the competent authority may send the child to any place recognised to be an approved place for such period as it may think necessary for the required treatment. Where the child is found suffering from leprosy or is of unsound mind, he has to be dealt with under the provisions of the Lepers Act, 1898 or the Indian Lunacy Act, 1912. State Acts too have such provisions. The U.P. Children Act provides for the removal of a child kept in an approved school who is found to be of unsound mind or suffering from leprosy or any other contagious disease, to a leper asylum, a mental hospital or other place of safe custody, there to be kept and treated during the remainder of the term for which he has been ordered to be kept. The period of stay may be extended for the purpose of his treatment.

The Children Acts invariably empower the competent authorities to make order requiring the parent or any other person liable to maintain the child, ordered to be institutionalised, to contribute to his maintenance, if on an enquiry made, he is found able to do so.

An institutionalised child may be placed out on licence by the prescribed authority for the purpose of living with some responsible person willing to receive and take charge of him with a view to educate and train him for some useful trade or calling. Conditions may be imposed in the written licence. The licence is liable to be revoked or forfeited on a breach of any condition or on the request of the new custodian. Under the U.P., Punjab, Andhra Pradesh, Bombay, Karnataka and Saurashtra (Malangna Area) and Andhra Pradesh (Andhra area) the child must stay at the institution for at least six months before he can be licenced out. Under these Acts the powers are exercisable by the Manager of the school with the consent of the Chief Inspector.

7. Section 31, Indian Lunacy Act, 1912, Section 14, the Lepers Act, 1898.
8. Section 50(1) Children Act, 1960, A putative father, of an illegitimate child is deemed liable to make such contribution, Section 50(3) Ibid.
9. Section 48(1) Ibid.
10. Section 45(3) Ibid.
Certain state Children Act e.g. Andhra Pradesh, Punjab and Uttar Pradesh, contain a further provision of 'boarding out of children' of every young age. For instance, under the U.P. Act where a child under the age of six years is sent to an approved school the Manager of that School may, with the consent of the Chief Inspector, board the child out with any person appointed for the purpose until the child reaches the age of ten years. This ensures a personal care of child of tender years, which is scarce at an institution. The central Children Act, and the state Acts following its pattern, do not contain such provisions. It seems that the improved conditions stipulated for children homes under these Acts were deemed sufficient to provide care even to children of tender age.

A major lacuna under most of the state Acts is the absence of separate institutions for the neglected and the delinquent children, specially the long term institutions. Keeping the neglected children with the delinquent ones involves a risk of moral danger to the neglected children. The state Acts do not prescribe for the provisions to be made available at these institutions. Therefore, the scope of facilities provided under the different Acts and the standards of education, treatment and training imparted at the correctional institutions are also not uniform in all the states and all the institutions of the same state. Provisions of after-care organisations is the feature of only a few of the Children Acts. It is necessary that the state Acts should be modified to conform to provisions of the Children Act, 1960 in this respect, which is quite in consonance with the modern concept of institutionalisation.

(B) NON-GOVERNMENTAL ORGANISATION

The United Nations Declaration of the Rights of the Child and the Government of India's National Policy for Children uniformly recognise the role of voluntary organisations in co-

12. Preliminary to the Declaration.
13. Policy, 6., 'Role of Voluntary Organisations'.
ordinating and supplementing the state efforts to translate into reality the rights of the child declared by the International body. The Declaration makes a particular mention of the society's duties, first, in extending particular care to children without a family and those without adequate means of support and secondly, in promoting opportunities for play and recreation of the children. Similarly, the National Policy seeks the cooperation of the voluntary organisations to attain the objectives, specially in the fields of education, health, recreation and social welfare services, either their own or with state assistance, and further lays down that:

It shall be the endeavour of the state to encourage and strengthen voluntary action so that state and voluntary efforts complement each other. The resources of voluntary organisations, trusts, charities and religious and other endowments, would have to be tapped to the extent possible for promoting and developing child welfare programmes.

A voluntarily organisation having its aim and object of serving the children either exclusively or as one of its programmes may get a legal recognition and status by registering itself as a corporate body under an appropriate law, depending upon the nature and scope of its activities. A child welfare organisation may get itself registered either under the Societies Registration Act, 1860 or the Religious and Charitable Endowments Act or the Companies Act, 1956 or certain local Acts i.e. the State Cooperative Societies Act, Bombay Charitable Trusts Act etc. In practice most of the voluntary organisations are registered under the Societies Registration Act. No separate registration is needed in case of the branches of such registered organisation, established within the rules of the organisation.

On registration the voluntary organisation gets a legal personality and an ability to sue and be sued. Its structure and functioning comes under the control and supervision of the State under the relevant Act, though the degree of control varies.

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15. Principle 7, Ibid.
16. Policy 6, National Policy for Children, see also Policy 8.
from enactment to enactment. Certain minimum standards of the service provided are also regulated through law and through conditions of grants-in-aid by the State. A control is maintained over the fund raising campaigns by strictly enforcing the methods of maintaining accounts, inspection and other direct and indirect devices.

The voluntary services relating to children are broadly divisible into non-institutional care and protection and institutional care and protection. The institutional care programmes of the non-government organisations have been brought under regulation by a number of enactments which may be divided in two categories. First, there are institutions which are recognised for the purpose of receiving the children ordered to be institutionalised by the juvenile courts/children's courts and the welfare boards, under various Children Acts, or who are ordered to be kept in a reformatory under the Reformatory Schools Act, 1897, or the girls ordered to be kept in a protective home under the Suppression of Immoral Traffic in Women and Girls Act, 1956. Secondly, there are those institutions which provide care and protection to the orphan, destitute and other categories of children outside the purview of these Acts.

Voluntary Institutions Certified to be Fit under the Children Acts and Certain Other Acts

The earliest enactment making a provision for institutionalisation of young offenders was the Reformatory Schools Act, 1897. This Act empowered certain courts to direct youthful offenders punished with imprisonment to be sent to a reformatory school in place of the prison. The Act authorised the State governments to use as Reformatory Schools, schools kept by persons willing to act in conformity with such rules, consistent with the Act, as may be prescribed by the Act in this behalf. The Act also provided certain minimum standards for such schools, similar to those at the State established schools. Only after the institution had been inspected by the Inspector General as appointed under the Act and

18. Section 8.
19. Section 5.
a certificate of fitness was issued by him verifying the fulfilment of the required conditions that the government could order such institution to be used as a reformatory school, by publishing the certificate and order in the official Gazette.

Later, when several Children Acts were enacted one after the other in different states, the voluntary sector reformatory schools were also gradually replaced by different types of short term and long terms institutions. The earliest of these enactments was the Madras Children Act, 1920. All these Acts included provisions to grant recognition to the community efforts in establishing such institutions for the custody and protection of the two categories of children brought before the juvenile courts viz. those in need of care and the juvenile delinquents. The short-term institutions were nomenclatured as remand homes, place of safety and the long-term institutions as certified/approved/ industrial schools and as 'fit person institutions', the nomenclature varying with the different enactments.

Under the Children Act, 1960, a further distinction has been created in the long-term institutions meant for the neglected children called 'Children Homes' and these for the delinquent children called 'Special Schools'. Provisions have also been made for setting up after-care organisations.

Any of the aforesaid type of children Act institutions may be established by a voluntary organisation and may be certified to be 'fit' for reception of children of the particular category, if it fulfills the minimum standards of facilities and amenities to be provided therein as prescribed under the Act. The Administrator or the State Government as the case may be are empowered to prescribe by rules the mode of management of such institutions including the standards and the nature of services to be maintained by them, and the circumstances under which, and the manner in which the certificate may be granted or withdrawn.

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21. Section 7.
22. Section 3(d), Bombay Children Act, 1924.
23. There are separate requirements of short-term and long-term institutions and those meant for the neglected and the delinquent children respectively. See Section 9, 10, 11 and 12, Children Act, 1960.
The Suppression of Immoral Traffic in Women and Girls Act, 1956, empowers the State Governments to grant a license in the prescribed form to any person or organisation to establish and maintain a 'protective home' or 'corrective institution'. The license so issued contains the conditions imposed by the State as prescribed. One of the conditions is that the management of such home or institution shall, wherever practicable, be entrusted to a woman.

Before issuing a license the State Government may require some officer or authority to make a full and complete investigation. The license is issued for a fixed period, but is renewable. When the person to whom the license is granted or his agent or servant commits any breach of the conditions imposed under the license the state government may revoke the license. If any person establishes or maintains a protective home or corrective institution without a license or against the other provisions, he is liable to punishment, in the case of a first offence with fine which may extend to one thousand rupees and in the case of second or subsequent offence with imprisonment for a term which may extend to two thousand rupees or with both.

Licensing of Other Residential Institutions

To ensure that the charitable instincts of people may not be exploited, and the services provided at the institutions established by the community to provide shelter and care to children outside the purview of the Children Acts are of a reasonable standard, the Parliament in 1956 enacted the Women's and Children's Institutions (Licensing) Act, 1956. This enactment introduced a system of licensing and supervision by qualified inspecting staff. The Act prohibited the establishment or maintenance of any institution for the reception, care, protection and welfare of children unless it had obtained a licence from the licensing authority under the Act. The licence could be granted only when such authority was satisfied of the minimum standard and the proper

26. Ibid.
27. Section 21(4), (5), (7) Ibid.
28. Section 21(10) Ibid.
29. Section 3.
30. Section 2(b), Ibid.
management of the institution proposed to be established\(^31\).

On the experience gained from the working of the afore­
said Act and its inefficacy, the Parliament replaced the Act by
the Orphanages and other Charitable Homes (Supervision and Con­
trol) Act, 1960. The Act improves upon the earlier legislation. It
authorises the state governments to establish a Board of Control
for the supervision and control of 'Homes' in the State. The Act
provides the complete frame work of the constitution and the func­
tions of such Board and its staff. The management pattern of the
Homes has also been prescribed. The Orphanages Act, 1960 defines
a 'Home' to mean:

An institution whether called an orphanage, a Home for
neglected women or children, a widows Home, or by any
other name, maintained or intended to be maintained for
the reception, care or protection and welfare of women
and children\(^32\).

Thus the scope of new enactment is quite wide.

After the commencement of the Act, no person is entitled
to maintain or conduct any home except under and in accordance
with the conditions of a certificate of recognition granted under
the Orphanages Act\(^33\). The Board may revoke the certificate, if it
is satisfied that the Home is not being conducted in accordance
with the conditions laid down in the certificate; or the manage­
ment of the Home is being persistently carried on in an unsatis­
factory manner, or is being carried on in a manner highly pre­
judicial to the moral and physical well being of the inmates, or
the Home has in the opinion of the Board otherwise rendered itself
unsuitable for that purpose\(^34\).

The certificate granted by the Board contains the name
and location of the recognised home, the name of the Manager there­
of, the nature of the Home, whether for children generally or for
orphans or for one or more of these classes. The number of inmates
to be taken by the Home, the minimum standards regarding boarding,
lodging, clothing, sanitation, health and hygiene which, having

\(^31\) Section 5.
\(^32\) Section 2(d), The Orphanages and Other Charitable Homes
(Supervision and Control) Act, 1960.
\(^33\) Section 13, Ibid.
\(^34\) Section 17, Ibid.
regard to the conditions of the locality in which the recognised Home is situated and its resources, should be complied with in the Home, is also to be specified. In case the education or training of its inmates is undertaken by such homes the certificate mentions the standard of education to be provided. Any other conditions and particulars as may be prescribed and imposed have also to be observed.

To take particular safeguards for the inmate children, the Act lays down that in respect of a Home for female children, the certificate shall be deemed to include a condition to the effect that the person incharge thereof, whether called a Superintendent or by any other name, shall ordinarily be a woman. No permission is to be ordinarily granted to any recognised Home to admit as inmates, persons of different sexes. A recognised Home is not allowed to change its name or location as specified in its certificate or alter the purpose of any service specified therein without the previous written consent of the Board.

To avoid duplication of standards, and regulations the Orphanages Act exempts from its purview any hostel or boarding house attached to, or controlled or recognised by, an educational institution, or any protective home established under the Suppression of Immoral Traffic in Women and Girls Act, 1956, or any reformatory, certified or other school, or any home or work house, governed by any enactment for the time being in force.

Non-Residential Care by Voluntary Organisations

There is no specific law to regulate the non-residential child welfare programmes of the non-governmental organisation, besides the general law under which such institutions are registered. The enactments under which the child welfare organisations are registered do not provide any rules or regulations comparable to those under the Children Act, 1960, the Suppression of Immoral Traffic in Women and Girls Act, 1956 or the Orphanages Act, 1960.

35. Proviso to Section 16(1).
36. 16(2), Ibid.
37. Section 16(3), Ibid.
38. Section 3, Ibid.
Those Acts impress more upon the observation of formalities required for registration and hardly concerned about the implementation of their bye-laws. Every body is virtually free to frame its own bye-laws or articles for the internal governance of the organisation or the pursuance of its aims and objectives. These Acts do not contemplate any supervisory staff to verify whether such objects are being carried out in practice. Then such registrations are rarely cancelled or withdrawn. In short, these statutes have nothing to do with the child or his welfare, these are enabling pieces of legislation facilitating the conferment of a legal status upon an organisation.

The Conference of the All India Voluntary Organisations held in Delhi in May, 1965, recommended that the Societies Registration Act, may be reviewed and revised in order to meet the present day needs of the voluntary sector in social welfare. The erstwhile Ministry of Law and Social Security agreed to get the Act examined. The Central Institute of Research now called the National Institute of Public Cooperation and Child Development, made a study of the working of the Societies Registration Act, 1860, but no major changes have been introduced in the Act to ensure a constant supervision over the societies registered.

Certain child welfare organisations, which receive grants from the Union or State government or a local authority, come under an indirect control and supervision of its mode of functioning and programmes. Some organisations get international aid in cash, kind or services, technical guidance, co-operation e.g. from UNICEF, CARE, Meals for the Million, WHO, UNESCO. About 20 percent of the all India organisations get assistance from international sources.

In almost all the grants certain conditions have to be fulfilled. The registration of the society, preferably under the Societies Registration Act, is the first condition of such grants. Then there must be a well defined programme, it must maintain a minimum standard of service, it must be open to all persons without

any distinction of caste, creed or religion, it must raise a minimum contribution from the community to match the grant, it must have a proper method of accounting, budgeting and auditing, it must execute a bond that it will abide by the conditions of grant, failing which the grant is liable to be refunded. Besides the above conditions the granting body has a right to inspect the aided agency at any time, to study its working and to ensure proper utilisation of the assistance.

The indirect method of control and supervision is administrative in nature and liable to vary with every grant giving body. There is no administrative control over those child welfare organisations which do not receive any grant, or do not need any as charity is benevolent to them. The same object and reasons that inspired the Parliament to pass the Orphanages Act are similarly relevant for the regulation of the non-residential child welfare services and organisations. Charity is liable to be exploited and funds raised are liable to be misappropriated or misapplied even in the organisation of common child welfare programmes. A legislation, regulating and supervising the non-residential child welfare programme is thus the need of the day.

The Central Social Welfare Board and the National Institute of Public Cooperation (NIPCCD), both of them being registered societies, are two of the major bodies under the aegis of the Ministry of Social Welfare, Government of India. The Central Social Welfare Board extends financial assistance to voluntary social welfare institutions for their child-welfare programmes. These include institutional services i.e. residential institutions for child care, protection and rehabilitation of socially handicapped children like orphans, destitutes, foundlings, and children of unmarried mothers, short stay homes, creches, balwadies, recreational centres for children and Child Guidance Clinics.

40. Social Welfare Institutions in Delhi, a Booklet published by NIPCCD, New Delhi, p.5.
The National Institute of Public Cooperation and Child Development promotes voluntary action and child development through its training, research, documentation and consultancy services. It has prepared a directory of all the voluntary organisations in the country including those engaged in the programme of child care and welfare.

Though the number of voluntary agencies has increased and their activities have also expanded, but due to the want of a proper and broad based legal framework these organisations have not been able to play their legitimate role. In some services there is duplication between the government efforts and the private efforts, while some areas of child care have totally remained neglected. A broad demarcation in the respective areas of functioning of the governmental and voluntary organisations in promoting child welfare services is essential for the successful implementation of the different child welfare programmes. On the one hand, willing co-operation and active participation of millions of citizens and families throughout the country will have to be secured and on the other hand state services and measures will have to be so formulated that they enlist such co-operation and participation. The two sectors should be complimentary to each other. This may be achieved only through a legal framework integrally considering the respective roles of the governmental and voluntary efforts in child welfare.

III. MAN POWER, TRAINING AND RESEARCH

If a single organisational process which affects most the child-care and protection is to be pointed out, it is 'staffing' in the technical sense of the term which refers to the entire man power planning, training, placement and utilisation. The persons involved in the actual delivery of child welfare services or with whom the child has to come into contact whether

A police man or a manager or staff of children's institutions and even the entire court machinery, has to be child-oriented. The needs and the psychology of the children is entirely different from that of the adults. They are physically tender and mentally immature, and being vulnerable are very easily affected by their environment. Thus only those persons should be given the charge to serve the children who have a proper child-orientation and training and understand the child psychology and sociology as the context may require.

There are certain institutions at the central and state levels both in the governmental and the voluntary sectors, which provide training to the different personnel engaged in various child care, welfare and protection services.

The National Institute of Public Cooperation and Child Development is the premier child development research and training institution. It organises trainings and workshops to orient the functionaries of the various child welfare programmes, as its routine function. It has brought out several publications for the purpose.

Special training programmes are organised by the NIPCCD for the functionaries at various levels of the ICDS. For instance, Child Development Project Officers are given eight weeks training, Maitri Sevika, a three months training and anganwadi workers, a four months training by the NIPCCD at selected training institutions. Training of trainers in training institutes is also organised periodically.

The training and orientation of medical and para-medical staff, and periodic surveys and evaluations of the health and nutrition aspects of ICDS is being carried out by the medical consultants drawn from the medical profession, local health infrastructure for each ICDS project.

42. It is situated at the Sri Institutional Area, Hauz Khas, New Delhi.
43. See NATIONAL INSTITUTE FOR PUBLIC COOPERATION AND CHILD DEVELOPMENT, Annual Report 1981-82.
44. SOCIAL WELFARE REPORT, 1981-82, p.15.
A training programme was started in 1961-62 to meet the requirement of trained personnel in the institutions implementing welfare programmes for children. The programme is being implemented through the Indian Council for Child Welfare, New Delhi, with 100 percent financial assistance with the Government of India. The training of bal sevikas is of 11 months duration and includes training in pre-school education, recreation, health, sanitation and social work.

The National Institute of Social Defence organises for various categories of social defence personnel, training courses and seminars in collaboration with State governments, Union territory administrations, universities and major voluntary organisations all over the country. The specific areas covered in the training programme include (i) Correctional Administration, (ii) Prison administration, (iii) Delinquency control, (iv) Suppression of Immoral traffic, (v) Correction Statistics and Research, (vi) Drug abuse and alcoholism (vii) Probation and allied measures, (viii) Role of judiciary in social defence etc.45

A two-week Regional Training course is organised by the Social Defence Institute in different regions for the supervisory personnel and workers in the field of suppression of immoral traffic, Superintendents/Deputy Superintendents of Protective Homes, Rescue Homes and Allied institutions, special police officers and voluntary social workers are also given training by the Institute. A similar course is organised for Superintendent/Deputy Superintendents of Children Act institutions, Juvenile Court Magistrates, Chief Organisers of non-institutional programmes in Delinquency prevention etc.

There exist several state level research training organisations.45A

Co-ordination is an essential element in the success of any organisational set up. It is unfortunate that child care and protection suffers from the lack of coordination. Several agencies

45. SOCIAL WELFARE REPORT 1981-82, pp.64-65.