

deliberate maltreatment of the child, with no firm dividing line between the various gradations on the continuum.

However, in terms of much of the evidence we have heard and the recommendations made to us particularly in respect of the Criminal Code, the focus has been on the "battered" or physically abused child. This is the child upon which the media reports; it is the child the hospital authorities see; and in extreme cases it is the child the coroner sees; and it is the offence for which the parent or person standing in the place of a parent can face a serious criminal charge.

The Committee, on the evidence before it, has concluded that this extreme form of neglect represents a serious problem. It is, nonetheless, a small proportion of children who are neglected in varying degrees and for various reasons.—(According to evidence presented, the battered child represented 2 per cent of referrals to children's aid societies in Ontario in 1974. Other evidence indicates that this group is a very small proportion of the total group of neglected children. (See Appendix A))

There was, however, a general acknowledgement that while the battered child is the highly visible result of a particular kind of abuse, there are many other forms of neglect. A number of witnesses expressed the hope that the Committee would not view the problem in a narrow sense but would examine the whole problem of child neglect in the context of today's society and cultural pattern.

In view of the terms of reference and the representations made, the Committee has attempted to look at the problem in its broader aspects and to formulate recommendations in these terms.

PART I—FEDERAL AND PROVINCIAL RESPONSIBILITIES IN RESPECT OF CHILDREN

GENERAL

The constitutional responsibility for legislation affecting children is divided between the federal and provincial governments.

Federal responsibility and concern for the social and economic environment of families and their children have been expressed both directly and indirectly through a variety of social security measures which are national or near national in scope such as family allowances, unemployment insurance, survivors' benefits, veterans' benefits including orphans' benefits, services to the native people, and through cost-shared programs with the provinces in the areas of health and welfare services.

The federal and provincial roles in respect of legislation and the provision of services for neglected and abused children are outlined below.

JURISDICTION WITH RESPECT TO NEGLECTED AND ABUSED CHILDREN

(1) Legislation

The provinces legislate in the field of property and civil rights and the federal government in the field of the criminal law.

Under these constitutional divisions, the provinces have enacted legislation for the protection of children under which provision is made for the intervention of the public authority when a child under a specified age (16, 17 or 18 years, depending on the province) appears to be neglected or in need of protection according to criteria set out in the legislation (See Appendix B). The court may under child welfare legislation order protective supervision for the child or removal of the child from his parent or guardian. Under this legislation also, most provinces have included mandatory reporting requirements.

The federal government under its constitutional powers has enacted the Criminal Code, which contains certain provisions affecting abused or neglected children (See Appendix A). These include sections 26 and 43 respecting the use of force as a method of discipline; penalties for sexual offences against female children (Sections 146 and 166); penalties for every person who endangers the morals of a child or renders the home an unfit place for the child (Section 168); the duty of a parent or guardian to provide the necessities of life and penalties for failure to do so (Section 197); and penalties for abandoning or exposing a child under 10 years so that its life is endangered, or likely to be endangered, or health is injured, or likely to be permanently injured (Section 200). Penalties for such offences as homicide, assault, and other offences apply irrespective of the age of the victim.

The criminal law thus provides a form of reinforcement to provincial law in cases of child abuse or neglect where there is sufficient evidence to justify the laying of a criminal charge in addition to any protective action taken on behalf of the child under provincial law.

(2) Services for Neglected and Abused Children

Under the constitutional responsibility for property and civil rights assigned to the provinces, direct services for neglected and abused children are administered by provincial authorities. These services include all those activities involved from the time a case of neglect or abuse is reported until there is a resolution of the situation; this may involve a court hearing and a decision by the court which may further involve the Child Welfare authority either through protective supervision of the home or through substitute care for the child in a foster home or other facility. The Child Welfare authority and other existing community services (day care, homemaker service, medical and hospital services, school services, police, etc.) may be directly involved in detection, treatment and providing of services and in collaborative efforts on behalf of the child and his family.

The Federal Contribution. The federal government presently contributes to the costs of services to neglected and abused children and to preventive services under cost-sharing arrangements with the provinces under the Canada Assistance Plan, the Hospital Insurance and Diagnostic Services Act, and the Medical Care Act. In addition, grants for research and demonstration projects are available for both health and welfare projects. The Department of National Health and Welfare in administering this legis-