CHAPTER 6

SUMMARY OF FINDINGS, CONCLUSION AND SUGGESTIONS

6.1

SUMMARY OF FINDINGS

The following are the important findings observed during the analysis of research-

It indicates that there is a mutual relation between the child abuse and J.D.

It is an essential condition for a healthy and developed being to be provided with early care and good upbringing.

The neglect of parents is the main cause which deviates a child and makes a child delinquent.

Delinquency does not appear by birth in child but it is developed after a period of time due to many social factors.

The social environment where children exposed is not all safe for them; it is the most vulnerable part, where children are becoming victims of abusive activities.

It is found that sexual abuse is the most threatening and the vulnerable abuse on children, which the child physically as well as morally low in society.

It is found out that violence on children is multifaceted, which may be physical or mental in the form of interpersonal relationship or through social relationship.

It is found out that the place of violence may be homes, schools, orphanages, streets, workplaces, places of detention. Places of custody and care homes.

It is found out that such activities affect the development of child and makes the child tearful towards social life by weakening a child mentally, physically and socially.
It is found out that some cases of abuse on children had even resulted in permanent impairment and even in death of child.

It is found that in India the cases of child sexual abuse reporting by children are less and so the issue of child sexual abuse has not been given justice for resolution.

It is also found that reporting of abuse cases is very less in India due to the family pressures from not being defamed in the society and also to protect the interest of a child in future.

It is found out that the family of the child in ultimately a responsible factor for abuse and exploitation of a child.

It is found out that on the view of lenient behavior for adjudication of juvenile delinquents, the juvenile in India are no more remained to be treated as victims are circumstances.

The juvenile in conflict with law in India are committing the crimes at par as adults.

The law in India to protect child victims and the laws to punish juvenile afferent are not satisfactory to out of the frequency of crimes committed.

The national policies and programs even though giving progressive development programs are not implemented properly many children remained unreached from its benefits.

This thesis has government found out that the state and the central all bodies both are lacking to protect the child and realize their rights.
6.2

CONCLUSION:

Children like others are forming the important part of the society and they too contribute for the development of society. In India, the cultural and traditional attitude is of putting children in very protective and most valuable resource. Children who are considered the most vulnerable and regarded as the future of country are not free from exploitation and are subject to every type of cruelty, misbehavior and bad treatment. A child is said to be the future of the country and so it is obligatory on the part of the society and state to give the child basic human rights. Child should be given an atmosphere where he can grow in a proper manner. Every child deserves an environment where he will be loved and treated with affection. However due to several factors and despite having a lot of welfare measures, most of the children are not even getting the minimum basic needs. Fruits of development and social benefit are out of their reach and in a very tender age they are forced to work for earning livelihood. The children in this way are forced into the exploitative environment.

In the present study, it is found that the crimes against children are increasing every day in a large extent. The children are becoming the victims of lust and other needs of adults. The adults are exploiting the children for their means of earning by putting them under labour related activities or forcing them under prostitution. India is still a developing country and in the competitive atmosphere the tender age of children is exploited by the adults. The development process in India has brought a social change in way of technological and scientific sphere. The Industrialization and urbanization is the cause for the increased crime rates. The people migrate from rural to urban areas to find job, and most of them become victim of abuse. Cities are sprung up with population with different needs of occupation and variety of culture and ultimately there is social organization and maladjustments taking place in cities. The impact of all this is very bad on Juveniles. The tradition way of controlling children is also giving way and parents are liberal towards their children. Consequently, the children are turning
antisocial and deviant. The children are taking advantage of the liberal attitude of their parents and indulging in immoral and anti-social activities. The reason for this may be to earn money or to experience the new things and pleasures of life. The children from the poor families are easily getting abused for the sake of needs and the well to do family children are lured by showing greed for money or other pleasures of life. The children after twelve years of age are observed to be acting like adults. They understand the sexual needs of their body. It is seen the children are watching the obscene materials and indulging in obscene activities. The adolescent age is actually starting from fourteen years to eighteen years. The age between the sixteen to eighteen years is now has to be considered a full grown adult and not a child. It is observed in many reports as mentioned in the research, that the above mentioned age is the age in which the children have committed the crimes like murder, rape, theft and other related to body and property. The juveniles are also found with the habits of drugs and liquor. The age is such in which the biological and psychological changes are taking place, in the body of juveniles. Their mind does not accept the right things as directed by parents and some juveniles don’t even have parents or guardians to direct them.

It is observed that, the main reason of juvenile crimes is the acts which they have suffered from. The juvenile at their early age if had been abused or maltreated, then for the sake of revenge back to the society, commits crime. Since as mentioned above, they are in their developing stage, they fail to realize the difference between correct and incorrect things. The children are abandoned by parents or exposed by the parents and so they become the victims of the exploitative activities of adults. Such juveniles, who got abused due to the circumstances, continue with the deviant activities and if not reformed, become hardened criminal. The society has very harsh attitude towards the children. The children who are poor and neglected and are on streets are used by the adult members of the society for the unlawful means. There are cases reported, of children are being abused by their own parents and near and dear relatives. The incest is rapidly increasing in India. The Researcher therefore concludes that, the
children should be provided with protective environment at home as well outside home. The offence against children and the offence by children are growing to a large extent in India. There are many legislatures in India which are actively protecting children against crimes. The JJS in India is very active. The attitude of people towards the children have changed. Even if there is much legislation for the children, their implementation is not to extent to give justice to children. The laws need to be effectively implemented for the welfare of children. Other hurdle is that, many crimes in India against children go unreported. The society must encourage the participation of children in the crime reporting. The role of court is noteworthy in child protection. The approach of judiciary is right based approach towards the children. There are some areas where the laws are not helping children, in that area the court system is addressing rights of children. The SC as the guardian of the Constitution is rightly executing its role in the protection of children. The Government of India by enacting laws on juvenile offenders has tried to reform them and not treating them as adult criminals. The first ever uniform legislature for juvenile was passed in 1986 and then according to the needs of society, amendments have been brought in it. The juvenile justice Act, with recent amendments has expressly mentioned the age of juvenile to be under 18 years of age. The boys and girls are both covered in it. But, after the Nirbhaya case, the attempt has been made to bring down the age of juvenile to 16 years. The reason for this was, due to social change the children are becoming mature at early age and so it has to be made 16 years. The Bill has been passed by the Lok sabha on bringing down the age of juvenile to 16 years and giving death penalty to heinous crimes like brutal murder with rape, acid attacks etc, but it is still pending in Rajya Sabha. The Nirbhaya Case is said to be very unfortunate case, because the juvenile is set free out, due to a current Juvenile law in India. A good and just legislation for treating juvenile offenders to be brought in India, to deter the juveniles from committing the crimes. The Judiciary is playing its role in safeguarding the rights of every citizen and so as per the constitutional mandate giving the judicial contribution. The Judiciary has contributed in the eliminating
the child labour, prostitution and empowering children with education facility and other developmental facility through its directions.

The researcher supports the stand of the apex court, that reducing the age of the juvenile under the JJ Act is not the solution to the problem. According to the Researcher, if today we lower down the age from 18 to 16, on the basis of Nirbhaya rape incident, we don’t have surety that the age of lower margin of the juvenile will not indulge in the brutal crimes. Therefore, we should not reduce the age of the children instead we should try to understand the problem and give the children good upbringing and atmosphere to mold them in to a better citizen. The intention of this view is to prevent the juvenile to commit crime in the first instance itself. The theory behind the juvenile justice Act is not retributive but reformative. The J.J Act is a beneficial legislation and it should be implemented for the betterment of the juveniles. The History is evident of protecting the children from being punished. The IPC expressly through Section 82 and 83 gives immunity to children from criminal liability. The object of the JJA is to restore the child back in society and to rehabilitate the neglected juveniles. The children who commit crime need special protection as well the neglected children need the same. There are multi causes why the child may indulge in crimes, but we if treat them as criminal then they will never be restored back in society.

It can be thus concluded that, we have good legislations but poor administration. The J.J.B’s are not functioning properly and the children homes are not protecting children but it has become a place where the children are more abused. Children are the asset of our country and so it should be preserved as the future of the country rest on the development of child.
6.3

SUGGESTIONS AND RECOMMENDATIONS

Today’s children will represent tomorrow’s future. The interest of children therefore to be protected. The laws of today need to be reoriented and the policies to be made more effective and goal oriented.

It is the duty of every citizen to endeavor for bringing about change in the life of children when they are exposed to unjust situation. The researcher therefore gives the following recommendations which may help in realizing the rights of children. The following recommendations are the rights based and suggesting the changes in existing laws and policies.

The recommendations given are in the nature of affirmative action for developing the children and enhancing their position in society and protecting the JCWL.

The J.J.A has emerged with the new concept of Juvenile Justice. This Act has reconstituted the correctional system for juveniles. This has also started giving vocational training and other skill development training. This has helped the JCWL and CNCP to reintegrate in society. The implementation of this Act need to be made more effective. The J.J.A has been very well drafted and is self-sufficed. The fault is in the implementation of the Act. The staff on whom the duties has been assigned in the execution of J.J. to be appointed properly. The selection process for staff has to be very precise and only on the basis of their expertise in this area. Even though the legislation is very good, the administration is very poor. The administration can be made strong only if there is a proper funding from the government. The 3D’s system should be followed, which includes Determination, Devotion and Dedication. This will help to make any program successful. There should be co-ordination committee, which will update the latest development and help to get co-operation among different sectors who has aimed to achieve the goal of J.J.
6.3.1 SUGGESTIONS AND RECOMMENDATIONS FOR CHILD PROTECTION FROM ABUSE:

1) The child if complains about the misbehavior of any person, or if parents observe that other person unnecessarily meeting child or fondling him/her, then that has to take up seriously and child to be protected from that person. The early identification of perpetrator is very much helpful in preventing future incidents against the child.

In the above cases the child sexual abuse can be prevented by early detection of the behaviour of the accused.

2) Train the children to strictly express ‘NO’ if they don’t like the touch or behaviour of someone. The children to be taught with the names of body parts. They need to be made aware of their private parts which should be kept safe from the touch of others. This is also to be executed in every school which can make the children aware about their physical safety.

3) There are plenty of laws for child protection, but the child care institutions should implement them properly for development of children

4) The guidelines issued by the courts in regards to child care and development to be implemented and violators to be punished.

5) There need to be set up monitoring bodies, which are to be given legal powers to check the execution of court orders.

6) For the effective child protection and development skilled, knowledgeable professionals, personnel and staff to be appointed for child care children. So the mechanism established for child care will operate for the cause of protecting and developing the children.
6.3.2 SUGGESTIONS AND RECOMMENDATIONS FOR EFFECTIVE JUVENILE JUSTICE IN INDIA

The researcher has given the recommendations with the view to improve the current juvenile justice system, to make it more effective and accountable.

The suggestions are discussed below for effective Juvenile Justice in India:

∑ The monitoring body to be set up, which will supervise the working of the JJS according to juvenile laws in India. The monitoring bodies to be set up in every district.

∑ The persons appointed as experts for juvenile care and the police unit to be expert in child psychology and should have sensible approach towards child. The person involved in child care should be provided with special training to help the children in their development.

∑ There should be awareness about the juvenile laws to the people. People are not aware of who are CNCP and they are not aware about the mechanism set up by the J.J. Act for their protection.

∑ Some people are committing crimes through the involvement of juveniles; hence the people should be made aware the responsibility of the main culprit, while inducing a juvenile or abetting a juvenile to commit crime.

   The people should be made aware to register the birth of their child in time.

∑ There is need to bring reforms under juvenile laws. The two system working under J.J. Act, need to be completely separate under two different separate laws. The Children who are not delinquent and are neglected can turn delinquent by the same rigorous mechanism process. The process of reintegration and rehabilitation to be made simpler for more children to be benefited by it. The offences like cruelty against children, child labour should have different and stringent approach, to remove it from the society.
On the Basis of the Critical Study the Following Suggestions are given:

A. JUVENILE JUSTICE BOARD

1. The officers including the principal magistrate involved in juvenile justice system to be provided with special training in child psychology. It will help them to deal with children with sympathetic attitude and in awarding welfare to the children.

2. The J.J.B should have child friendly approach. The ambience of J.J.B should not be like adult courts. The juvenile should not be made to stand in front of the board as criminal. The child must be made to feel comfortable and free from fear in front of board. This will help the child to confess the crime committed and the process will be expeditious in that way.

3. There should be basic things like computer, typewriter, stenographer, furniture and buildings should also be provided to the Board for smooth discharge of duties.

4. The files and case records to be maintained properly.

5. The homes under J.J.A must be provided with the facility of video, to inspect or supervise by the board if anything happens against the child.

6. The two social workers appointed in board, must have a law degree.

7. The children to be sent to counseling immediately after taken into the custody.

8. The parents of the children need to be given training on how to deal with their children. The workshops or seminars to be executed by the Boards to help people understand the root cause of delinquency and the preventive measures of it.
B. TREATMENT OF JUVENILE

1. Juvenile should be brought before J. J. B within 24 hours.

2. The police should not treat juveniles as they treat adult criminals.

3. The date when the offence is committed is important to determine the age of the juvenile. A detailed scientific investigation for determination of the age is not required.

4. The Police as well as the Board should not violate the privacy rights of the juvenile.

5. The juvenile has the same Constitutional safeguards like other adult offenders. The statement of the juvenile under section 313 Cr PC should be recorded and if he/she wants to adduce evidence then that should also be allowed.

6. No juvenile shall be given death penalty or to be sent to the prison.

7. Whenever the juvenile is brought before the magistrate, who does not have power to entertain him, the juvenile be sent to the J.J.B, without any lapse of time. The magistrate should record the opinion for the same, while sending him to the J.J.B.

8. Judges in the juvenile courts should be trained to realize the educational, social needs of the children in crisis.

9. The emphasis to be given more on the developmental programs for children under the homes established by J.J.A.

C. PROCEDURE FOR INQUIRY

1. The Principal Magistrate should not be given responsibility of any other work of the criminal court except the JJB. The Board is required to complete the enquiry within 4 months and hence the children should be given preference.
2. Common rules should be followed throughout India in all JJ Boards.

3. The children to be sent in special home or observation home only in exceptional cases and for strong reasons which are to be recorded.

4. The board should conduct independent and private inquiries with the juvenile to ascertain whether he/she was abused, sexually or otherwise by anyone or is suffering from any disease and if it so the juvenile be sent to government hospital for checking and treatment.

5. The Board should also ensure that the police officer who apprehends a juvenile had intimated the apprehension of juvenile to his/her parents or guardians.

6. The report of the probationary officer to be referred before the final disposal of the case.

7. Summary procedure should be adopted during enquiry and not a lengthy one as there for adults.

8. There should never be a joint proceeding of a juvenile and an accused adult.

9. JJB should conduct awareness programs about offences against children in every school situated in their jurisdiction through legal aid campaign.

10. The Board should be given power to take suo moto cognizance of cases against juveniles.

D. REHABILITATION/ SHELTER HOME/ OBSERVATION HOME

1. There should be separate homes for juveniles and the destitute. The structure of homes should not be like jails. The homes for children should be video linked to facilitate inspection and supervision by the Board so as to keep a check on of the activities of the homes.
2. The children in homes should be compulsorily given schooling up to the age of 14 years. The facilities as per the development of children to be provided in the homes. The children should be given all possible opportunity to develop by giving vocational trainings or other related trainings. This will help the children to develop a better future, after being out of the homes.

3. Personality development courses should be enhanced in homes, to mould the children in better person.

4. The activities like games, sports and other functional programs may be organized in observation home and institution to encourage the juvenile and keep them active. During festival seasons some cultural programs should be organized in the homes so that the children will be aware of our traditions and cultures.

5. Adoption used in section 41 need to be made clear as per the J.J. Act.

6. The property right of the juvenile on adoption need to be explained clearly in the Act.

E. MISCELLANEOUS

1. The Juvenile Justice Board should be made functional on all working days.

2. The JJB should be given power to entertain the complaint by their own without the interference of police. It will help the children to come up with their complaints without any fear.

3. There should be separate system to deal with female juvenile offenders. Since the female juveniles are more vulnerable, they should be kept in separate homes meant for them and not be mixed with male juveniles.

4. The Act is silent on matters of TADA/POTA/NDPS Act the provision related to make these Acts inclusive for treating the children under J.J Act has to be made.
5. The juvenile offenders involved in brutal crimes should be after investigation made to undergo a deterrent punishment in the interest of the society. The provision is silent on this aspect under juvenile laws.

6. Regarding the crimes against children, the definitions of crimes should be made exhaustive. Example in IPC, the definition of rape should be made more inclusive of different abusive activities.

7. In view of increasing incidences of incest, the parents of children get to be very alert in regard to protection of their children.

8. There should be an efficacious procedure adopted to prevent the incidences of prostitution in our society.

9. The three C formula to be adopted, i.e. Counseling, Cajoling and Coercion to enforce the provision legislations to prevent crime against children.

10. There should be a Child Advisory Committee set up in every area to give suggestions for eradicating the child prostitution and which will enable the mechanism for providing necessary care and rehabilitation to the victims of prostitution.

11. There is an urging need for stringent laws to protect the children from the various crimes including the sexual offences. The definition of the sexual offences to be made more inclusive.

12. There is a need of social engineering for changing view of people for children. The social abuse is still prevalent in society. We find the children to be exploited for the purpose of business of adults. They are the easiest source for putting them under labour with low wages or using them as beggars. The business of begging is flourishing a lot in metro cities. There is a need to bring a strict law against it and bring a strong mechanism agencies to enforce it.
13. The Government should have sensitive attitude towards the children of the country. The Right to education is still not realized by many children. There should be proper mechanism to implement this right of children to take education.

14. The family environment and a school environment plays key role in the upbringing of a child. The mental abuse to the children must be stopped and they should be provided with good environment to grow better for their future.

15. The children need to be treated with care and guidance for the day to day activities. They should not be kept in isolation and they should not be allowed to watch movies or other objectionable materials. This will make the child imitate the thing which he had seen and so it may make him indulge in criminal activities.

16. The children as well the parents should be made aware about the importance of education and such an education shall include the awareness about the benefit of a better education and after the education the status they get in the society, about the benefit of good education and they must be encouraged to be a good human being.

17. The delinquent juveniles are the children in the society which is as like a uncared, injured organ of the body of the human, you cannot ignore if the organ is injured but it needs more care and nice treatment than the other body part of the body. The same care and extra attention needs to be given to those juvenile.

18. At the very same time the juvenile Shelter homes/ Children homes needs to be made a true protection and care center for the children, these places needs to be change immediately and drastically as these are the only places which can change the face of the society, how these children are treated here is very important as the object of the JJS is to improve the children and make them good social people of the society.
19. The law is amended at various times; however, the implementation of those laws are also very important at the very same time. Govt., society as well as the justice administrative system has to be also sensitive towards the juvenile and the children in the society. The definition of the child is abuse and the juvenile delinquency has to be elaborated.

6.4 FUTURE SCOPE

- The Child is supreme most asset of country and so the realization of their rights will sensitize the need of better protective policies and legislation in our country.

- The relation between the abusive activities and delinquent behavior will clear the view of the law makers and it will help the future laws to be more stringent and reform welfare oriented.

- Life is not a 100 meter race, it is a relay race. It goes from generation to generation, so it is our duty to make the upbringing of the child best for the good future because if the foundation is strong then the building will automatically be the strongest forever.

- This study evolves the aspect of delinquent behaviour of child and enumerates the policies and schemes which will be effective to curb the delinquent behaviour of child. The conflict between the youth and society is apparent in this study and so the youth oriented welfare policies to be promoted by the Governmental bodies.

- The dignity of the child is to be kept utmost. The parents even if giving birth to the child, do not get a license to treat the child as an inanimate object. The child should not be treated as property and be treated with care and given facilities to develop.
When the justice system will be accessible to all the members of society, the people involved in executing this system automatically make efforts to prevent the crimes. The police should develop soft attitude towards the youth and try to prevent the youth crimes. The ultimate responsibility is on the citizens of this country to help to rehabilitate and reform the deviant children of society. The society has to be sensitive for preventing the crimes occurring against the children and should try to curb it. We should always remember that “Unite together is more powerful than being Single”.

6.5 LIMITATIONS
The present study has the following limitations:

- The study is confined to know the related facets of child abuse and juvenile delinquency.
- To know the effects of abusive activities in society.
- To analyse the co relation between the child abuse and juvenile delinquency.
- The study is also confined to know the various legal mechanisms to control the abusive activities in society and prevent the juvenile delinquency.
- The study is confined to access the judicial material related to the child abuse and juvenile delinquency.
- The present study done has got its own limitations.