CHAPTER 8

CONCLUSION AND SUGGESTIONS

8.1 Conclusion

Child right and child welfare refers to all those measures which lead to the proper physical, social and psychological development of the child as against inhuman treatment and child neglect which often causes a lot of damage to the victims and are responsible for their hyperactivity, low intelligence quotient, withdrawal symptoms, physical defects, anxiety, less coaxial responsibility, rebellious feelings. Continuous abusing of child and neglecting them, despite awareness regarding its implications can be disastrous for the child development.

The entire community’s welfare depends on the health and welfare of the child. The betterment of the child is the betterment of the community because child is the future leader. As rightly observed by Milton, child shows the man as morning shows the day. Obviously, a neglected and abused child will never become a good and responsible citizen. During the past few decades, the main cause of violation of child rights is poverty and illiteracy. The problem of child labour, child abuse, exploitation of children, poverty, nutrition, education, employment and respecting their rights at every front has acquired a very chronic nature and things cannot be done instantly, it requires time and patience. This problem is due to the greedy needs of parents, relatives, employers and society at large. A child whether from rich or poor background has their own miserable stories. They live in those stories, grow with them and experience something deadly every day. The child feels enslaved even today as they find no redressal of their problem except some policies and programs on paper.

Child neglect is another issue which is to be considering, as it affects the whole life of the child. Few parents understand that providing proper care and basic amenities of life are necessary for the overall development of child. Majority of the parents are not bothered about proper food, clothing, education and medical need of the child, which often leads children to a socially and physically handicapped life. Emotional support is another aspect which requires serious attention by parents.
Emotionally disturbed child is unable to become a good citizen. A large numbers of children are being sexual assaulted in juvenile institutions, by unfamiliar persons, by employers and sometimes even by their own parents. Thereafter, the sexually assaulted children can never lead a dignified and self respecting life.

India has made some significant commitments towards ensuring the basic rights of children. There has been progress in overall indicators such as, infant mortality rates have come down, child survival has gone up, literacy rates have improved and school dropout rates have fallen. But the issue of Child Rights violation in India is still caught between legal and policy commitments towards children on the one hand, and the fallouts of the process of globalization on the other. There are various constitutional and other statutory provisions to protect the interest of children, but most of these provisions are protective in nature and do not include a positive direction to provide comprehensive services to promote the wellbeing of children. Legislative measures concerning children, like most other laws remained flawed, inadequately and in need of constant revision. Existing laws children do not receive best that mankind has to offer but they can only be shielded from the worst. It has been more than two decades since India ratified the United Nations Convention on the Rights of the Child but little has been done to ensure that the mark set by the Convention is met. The issues relating to violation of Child Rights and Child abuse have to be viewed not in isolation but in the context of national development. It is also essential that child should be placed high on the agenda of national development.

The researcher has analysed and concluded that poverty, illiteracy, broken homes and peer influence play vital roles in giving birth to child offenders. Therefore in the researcher’s opinion the government should provide employment to parents and create awareness about the importance of education in them because those who do not understand the value of education very often send their children to work in order to support their income giving birth to child labour. The consequences are that they are denied education, deprived of their right to recreation and exposed to wrong company which pushes them into committing crimes. There is no denying
the fact that India is lagging far behind the west in providing welfare measures to child. Following are some aspects which require immediate consideration:

1. Age of Child under United Nations Convention on the Rights of the Child is 18 years. India also adopted this Convention on the rights of Child. In India age is differ in different laws. Therefore researcher wants that the age of child should be uniform in order to implement the Rights to Education Act in true sense.

2. In view of Child Right violations and other violations of human being which are increasing day by day the researcher strongly recommended the establishment of an International organisation in order to deal with the matters relating to violations of child rights

3. The information and the observations made in the present research indicates that efforts should be made to increase the enrolment and retention of children in school by adopting innovative, child friendly methods of teaching. To encourage enrolment and retention of female children in schools adequate infrastructure must be provided to the schools including sanitation facilities, keeping in the mind the special needs of the girl child.

4. Some state governments have banned corporal punishment in schools. Inspite of this corporal punishment continues unchecked. There is an urgent need for formulating a central legislation banning corporal punishment in schools and creating a system where cases are not only reported but strict action taken is against abusive teachers and principals. However teachers should be given the authority to scold the students for maintaining discipline.

5. Apart from stringent laws and measures to prevent child right violation, there is a need to sensitise and educate people who are responsible for protection of Child Rights (such as parents, teachers, guardians, employers etc.). Also awareness among professionals like doctors, teachers, social workers, voluntary organisations, police and legislative authorities would go a long way in preventing violation of child rights.

6. Our country has made a plethora of laws, policies and programs to deal with children related issues and violations of their rights, but these laws, policies
and programs are suffering from the problem of lack of coordination and linkages between them.

8.2 Suggestions and Recommendations

Following are some of the specific suggestions and recommendations to uphold Child Rights and prevent child abuse. In this regard it is required to make some positive changes in Existing Legislations, National Policy, and Judicial Attitude, and in the process of enforcement of laws.

1. Access to Justice is the primary need and right of every human being including children. As discussed in the preceding Chapters of the thesis, there are various constitutional and other statutory provisions to protect the interest of the children, but most of these provisions are protective in nature and do not include a positive direction to provide comprehensive services to promote the well being of children. At the same time, the existing laws do recognize the vulnerability of children to neglect and exploitation and accept state responsibility to protect them from situations which may jeopardize their development. Legislative measures concerning children, like most other laws, inevitably remain flawed, inadequately observed, and in need of constant revision. It is very clear that through the existing laws, children do not receive the best that mankind has to offer but they can only be shielded from the worst.

2. The protective laws are unable to cover all type of working children in all the juvenile care institutions especially under the circumstances where the desperate needs to augment low family incomes makes many parents connive willingly for child labour and exploitation of children by employers. The inadequacies of the inspection staff, absence of reliable birth certificates and inability to provide schooling for all children contribute to a travesty of the enforcement of child labour legislation. There is recognition that children who are destitute, abandoned, neglected or exploited must be viewed essentially as victims of unfavorable social situations. Laws dealing with destitute and neglected children are areas where the policy embodies in the
laws is very progressive but implementation leaves a great deal to be discussed.

3. Apart from this, there is an urgent need for a comprehensive legislation to deal with the problem of child sexual abuse by parents. The POSCO take care of this but there is lack of awareness of this law. The POSCO Act will protect children from child abuse including commercial sexual exploitation, child pornography and grooming for sexual purpose. This law is also required deal with physical abuse including corporal punishment and bullying, economic exploitation of children, trafficking of children and the sale and transfer of children. But again this law is comprehensive as it has given a thought for creating Child Protection Units (CPUs) and Child Protection Courts (CPCs), which would implement these new laws effectively and speedily.\(^{364}\)

4. A special codified law regarding Protection of Children from Abuse and Neglect may be enacted to curb with the menace of child abuse by parents and the enforcement machinery should be activated. There is also a clear and established need for a National Legislation to deal with all types of Child Right violations.

5. Another area which needs legislative reforms is the protection of victims of begging and sexual exploitation. The Immoral Traffic (Prevention) Act, 1986, though covers the sexual abuse of children but is not an effective and efficient law. Child begging, which is taking the form of organized trade, must be suppressed by the enactments of strict anti-begging legislation. Same is the case of child prostitutes. There is need for effective enforcement machinery for rehabilitation of child prostitutes and to introduce more strict laws in this direction to protect the future of the nation.

6. The existing National Policy on Children needs revision and there is a need to develop a comprehensive policy on children which should look at all the aspects of Child Rights and not compartmentalized and scattered issues.

\(^{364}\) Pinky Virani, Proposed Legislation must be Comprehensive, Times of India, 18th December, 2007.
7. The National Policy should also view the needs of children both normal as well as those suffering from various types of handicaps, (physical, mental and social) and should also maintain provisions to promote their development into society. The children of economically weaker sections, delinquent, destitute, neglected and abandoned children must be provided facilities to overcome their difficulties and to become good citizens. There is a clear and established need for a separate National Child Protection Policy. Multiple strategies need to be developed, since no unitary law or scheme can provide a solution to protect Child Rights.

8. Every state should set up a State Commission for the Protection of Rights of the Child and formulate Plans of Action for Child Protection at the district and State levels.

9. The problems of children in prostitution and pornography etc. need to be considered and well planned policy measures are required to deal with child prostitution and the rehabilitation, of children who have been rescued from this trade.

10. There are a various legal provisions under various enactments for protection of child rights. But for the effective application of these enactments, a sensitive and effective judicial system is required. It is very rare that cases of child right violation are brought to the notice of courts under normal circumstances. Occasionally one Sheela Barse or MC. Mehta move to the highest juridical forum to plead social justice for child as guaranteed under the Constitution. The working of Juvenile Justice System in our country needs a thorough revision. There is, thus, a need that courts should take keen interest in changing the lot of abused, neglected and exploited children.

11. It can be observed from the chapter relating to ‘Role of judiciary in protection of child rights’ that the courts have shown inconsistency in dealing with child rape cases. Courts should not remain silent, spectators to insensitive cross- examinations. The physicians appearing before the court are unfamiliar with the medical examination procedure of sexual assault victims because of which the medical examination of rape (sexual abuse) victims further traumatizes them. The doctor’s role and attitude, immediately
After the sexual abuse, plays a vital role when the victim’s family goes for the legal action. When sexually abused children go through the procedure of adult courts, it is a trauma for them, as legal process does not conclude easily. They are further traumatized by what the law puts them through.

12. The establishment of trained and sensitized Child Protection Unit’s and Child Protection Court’s is urgently required in our country. There will be specially trained police persons to handle one Child Protection Unit in each city. They deal with all cases where a child is a victim, from the filing of First Information Report, investigation of the cases, and handling of the child where statements are recorded on video by psychologist, so that the child is not continuously re-traumatized to medical examination on premises, counseling and follow up visits to arrest the perpetrators. Child Protection Courts have judges who are child friendly, there are no case delays, not much cross questioning, court proceedings are in-camera and victims are shielded from the accused.

13. Though there exist various laws for child rights protection, but it is required that a child focused judicial system should be developed. Special principles of procedure are required to enable courts to deal child abuse by elders in the family. The statistical data relating to Child Right Violation shows that Courts have been concerned only in punishing ill treatment of children outside the family. Parental abuse has not been attended to by the Judiciary in sizable number of cases. The laws should be interpreted in the context of standards as provided in the Convention on Child Rights, 1989. Even the existing laws are required to be reviewed in the context of CRC. It is also required that Indian Legal System should evolve a great deal for securing the rights of the child and providing justice to the child.

14. Merely bringing the law will not do justice to the children. The rights provided under various laws are of limited value unless they are effectively enforced and asserted. To reduce the risk of child abuse, It is required that inter agency structures and creating awareness of Child Right protection, and how to deal with it amongst various service providers. There is a need for
more voluntary organisations to look into the instances of Child Right violations and deal with cases through enacted legislation.

15. Institutions under the Juvenile Justice (Care and Protection of Children) Act, 2000/2015 are corrective institutions and children in conflict with the law in these institutions should be provided with all the opportunities to reform and develop into responsible citizens but the implementation of the Act is very slow. The present condition of the existing institutions requires a lot to be improved. Institutions such as observation homes, juvenile homes and special homes and after care services do not exist in many states. These institutions are not functioning properly where institutions there are available. The conditions in these institutions are very filthy and unhygienic; large numbers of children are residing in one room. There is no separation between innocent and delinquent juveniles. Authorities are actively engaged in neglecting and abusing these children, the working of juvenile institutions in our country needs a thorough revision. The punishment for abuse and neglect of child by managers and supervisors should be more strict and effective. Caregivers of the institutions are also abusers. The behaviour of the caregivers (supervisors and Managers) destroys the faith and trust of the child and completely alienates them from the society itself. This should be prevented by strict monitoring and supervisions of juvenile homes, maintenance of detailed records of children, deinstitutionalization of children and where ever possible, the training for sensitization of caregivers of the institutions.

16. Juvenile Justice Boards, Child Welfare Committees and Special Juvenile Police Units should be set up in each district and manned by sensitive and trained personnel.

17. Law are required to be amended immediately for making sexual abuse and commercial sexual exploitation of children, a very serious crime and to impose severe and deterrent punishment on the offenders both Indian and foreigner. The amended law should be gender neutral and ensure that procedures are simplified and child friendly, responses are appropriate, timely and sensitive to victim.
18. Enforcement of laws would require a very effective and efficient system for providing economic relief, support services and social education. Further, liberalizing the principle of locus standi would strengthen the enforcement of the laws relating to children. Monitoring of judgments and decisions of the courts is also required to improve the status of the Child.

To conclude this thesis, following are some more observations made on the basis of the dimensions and areas covered throughout the work. In this regard, following are some general suggestions:—

1. Education is one of the most important investments that any developing country can make for its future. Education is the most effective tool for empowerment and human development. Education appears high on the National Agenda as Right to Education has been added as one of the Fundamental Rights under Indian Constitution. To implement this Right, the Right of Children to Free and Compulsory Education Act, 2009 has also been enacted by the Parliament. This law now requires to be tested with the time how effectively it works because lack of sensitization, commitment, enforcement mechanism and trained personnel are the major obstacles in providing child rights.

2. There should be better Co-ordination at National, State, District and Block Ward levels for rescuing children from banned occupations and their repatriation and mainstreaming them into appropriate education streams. Also, for poverty alleviation schemes, specifically targeting families of working children, repatriated working children and children at risk of falling into child labour, the coordination should be maintained.

3. Schools of social work and universities should offer specialized courses on Child Rights protection and counseling. Further, child rights and protection issues should be integrated into the curricula of administrative institutes, police training academies, law colleges, medical colleges, teachers training schools, etc. so that the professionals passing out of these institutions have

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365 Article 21A: free and compulsory education for the children between the age of six to fourteen years, added by 86th Constitutional Amendment Act, 2002.
both the sensitivity and the knowledge to deal with child rights violation issues.

4. A large number of children go missing for different reasons there is little attempt to track them or trace them. Such children are most vulnerable to all forms of abuse and exploitation such as they are trafficked for domestic work, other forms of labour or commercial sexual exploitation. Not only should they be tracked but existing mechanisms for their rescue, rehabilitation, repatriation and reintegration should be reviewed and strengthened while keeping in view the best interests of the child.

5. Gender equality is possible if social norms ensure that the girl child lives in a non-abusive environment in which she is cared for and respected. Discrimination of girls results in their lower enrolment in schools, higher levels of malnutrition, trafficking of girls for sexual exploitation, child marriage and their non-participation in Decision-Making in the family etc. These imbalances need to be addressed by bringing about attitudinal changes among people regarding the value of the girl child. Empowerment of adolescent girls should be done by making them aware of their rights, orienting them on the subject of abuse, instilling life skills including knowledge of childbirth and child rearing practices.

6. The responsible media should spread awareness on Child Rights. Debates and discussions by including participation of children should be a regular feature on electronic media in order to enhance people’s knowledge and sensitivity on child protection issues.

Finally to conclude, it is to be noted that over these seventy one years of Indian independence, India has made some significant commitments towards ensuring the basic rights of children. There are various constitutional and other statutory provisions to protect the interest of children, the Central and State Government has come up with many initiatives, introduced manifold programmes and these programmes continue to evolve and respond to contemporary requirements in a fast changing India. But the issue of Child Rights violation in India is still caught between legal and policy commitments towards children on the
one hand, and the fallouts of the process of globalization on the other. Most of these provisions are protective in nature and do not include a positive direction to provide comprehensive services to promote the wellbeing of children. Tremendous progress has been witnessed in last few decades in the area of literacy, especially that of a girl child, child care, health and nutrition, and prohibition of Child employment. The pace at which programmes and policies are being drafted and implemented, we will be able to achieve much greater progress for securing children’s rights for years to come. We still have to travel a long way to fulfill all the pledges that we have made to our children in the Constitution and elsewhere.