MEANING OF THE TITLE OF THESIS

The title of the thesis Protecting the Innocence of the Child: A Study in Legislative and Judicial Trends in India includes the basic rights of children and their protection from violence, conflict, neglect, exploitation, abuse and injustice with them. In Indian scenario a child requires proper care, love, affection and nourishment but experience shows that the children are subjected to maltreatment in some situations. The research discusses various issues, discrimination, violation of child rights and other practices against child, like Child Abuse & Violence, Crime among Children, Child Labour, Exploitation of Children, Child Trafficking, Child Prostitution, Child Pornography, Neglected Children, Child Marriage, Sex Discrimination problems of Girl Child, Child Health and Nutrition, Child Education, and several other different facts are matter of concern in almost all the countries. The study examine at national level with legislative and judicial trends in India and different conventions, recommendations, and declarations etc, in international level and to analyse the implementation aspects of child laws and their proper evolution for ensuring child social, economic, and psychological rehabilitation.

This thesis evolving various ways and means that would adequately protect, care & maintain the welfare, training, education, rehabilitation, trial needs of the children in India & to find out the factual proposition of the child laws and legislation in India for ensuring child social, economic, and psychological rehabilitation who are either accused, destitute or lost or are abandoned.

LITERATURE REVIEW

1. Bhattacharyya T. (2017), THE INDIAN PENAL CODE (IPC) 8th Edition, In this book the author has explained various offences wherein children are victims. The offences against children and their punishment are broadly discussed under different section of IPC. The cases have been also discussed in detail. The provisions related to offences against children and their punishments have been referred from this has excellent piece of work.
2. **Jurisprudence of Juvenile Justice: A Preambular Perspective** by V.R Krishna Iyer J, express the hallmark of culture and advance of civilization consists in the fulfillment of our obligation to the young generation by opening up all opportunities for every child to unfold its personality and rise to its full stature, physical, mental, moral and spiritual. It is birth right of every child that crises for justice from the world as a whole.

3. The State of the World’s Children (UNICEF) Forwarded by Kofi A. Annan, Secretary General of the United Nations, observed there is no trust more scared than the one the world holds with children. There is no duty more important than ensuring that their rights are respected, that their welfare is protected, that their lives are free from fear and want that they grow up in peace. The problems relating to children are basically a gift of poverty and illiteracy; but there are certain other causative dimensions of the problem, including at some places, the social structure.

4. In book titled ‘**Child Rights in India**’ by Asha Bajpai (2017) third edition provides the changes in national and international law, policy, and practice to protect and promote the rights of the children. There are several legislations, progressive court judgment and policy initiatives in India. This book deals with national laws, case laws, major policies and schemes of the government, international law and interventions and strategies by nongovernmental organizations to protect and promote child rights, gaps in implementation of laws and policies, and recommendations for legislative reform in support of children.

5. The third edition of the book Law relating to ‘**Women & Children**’ (2012) by Mamta Rao discuss the various issues relating to children and to meet the challenges of most vehement forms of rape and child abuse and discrimination in Labour Laws and it also discuss certain new laws have been passed by Central & State government and various amendments have been made in criminal Law and personal Law.

6. The book on ‘**Law and Social Transformation**’ by Krishna Pal Malik & Dr. Kaushik C. Rawal describe issues related to exploitation of Children in the Third part of this book i.e “Children and the Law” this part divided into
five chapters (9th to 13th), the 9th chapter is related to Child Labour, what are the provisions made at international and national level to eliminate child labour in India; if Indian existing laws are sufficient to prohibit the child labour; the 10th chapter is related to the child exploitation, and what are the laws combating the exploiter; the 11th chapter of the book is important in making understand the law relating to adoption and the problems faced in adoption under the secular country. The 12th chapter of the book is again unique, containing the problems in India and suggestions for removal of illiteracy from the country.

7. The book on ‘Child Rights and The Law’ by Dr. Nuzhat Parveen Khan (2016) were deals with different issues and problems relating to children, especially from the marginalized sections of society, the rights available to them under the constitution and the various laws enacted to implement the same. This book indentified and compartmentalized the various issues relating to children in eleven chapters, with the twelfth chapter comprising conclusions and suggestions. The contents deal in detail with concept of child rights and child abuse in India. Highlighted the trauma of trafficked children, magnitude of the problem of child labour which encourages trafficking and even abduction and kidnapping as part of the menace of trafficking. It also referred to the various government policies, plans and programmes for child welfare, along with the legislative measures taken by government for protection of child rights.

8. The book on ‘Offences against Children and Juvenile’ Offence by Dr. S.K. Chatterjee (2016) were deals with commissions for protection of rights of children, right to free and compulsory education, international law for children, juvenile offence, and juvenile justice have been incorporated.

9. In book titled ‘Rights of Child’ by Subhash Chandra Singh (2007) were basically based on various Research articles written by eminent authors. In this book issues regarding children are promptly raised by S.N Yogish in his research article titled “Human Rights of Children”, he discussed about the human rights of children. Human rights are the basic & absolute rights. They recognized the vulnerability of human being in civil, political, economical,
social & cultural processes & provide protection. They further discussed the basic human rights given by U.N but still children were exploited by the society in many ways.

10. **Child Line India Foundation** describes the vulnerability of children in India which created by the socio-cultural, socio-political, socio-religious situations which child live in and the reason of child abuse, neglect, exploitation of children is the lack of protection, polices & legislation also renders children vulnerable.

11. **Kiran Agarwal Secretary, Department of Women & Child Development** explains various issues regarding children & their proper development, with the purpose of ensuring through a process of partnership and co-operation with other departments.

12. The book titled ‘**Child Development: Problems and Issues**’ by Sailaja Nagendra (2008) has focused on Child Behavior, Child Labour, Child Abuse, Child Labour and Human Rights, Early Childhood care, Counseling for Child Development. This book has been written to serve as an insightful manual which explores the challenges and problems confronting child development. As social moral economic and political dynamics undergo constant changes and manifest in various forms children are affected the most. The complexity and range of the variables on child development above and beyond the innate maturation process requires the research efforts of many disciplines.

13. Speech delivered by **Hon'ble Mr. Justice P. Sathasivam, Judge Supreme Court of India** on Offences relating to Women and Children during the refresher course for district judges at Tamil Nadu state judicial academy on 27th November, 2010 discussed the various discrimination and issues related to exploitation of children and related laws and protection given to children and summarising the whole by giving suggestion to remove defects anomalies in existing laws, policies and programmes to well being of children.
STATEMENT OF PROBLEM

1. In India, the problem of violation of child rights and child abuse is prevailing on a large scale.
2. Everyday large numbers of children are exploited by employers by employing children for hazardous work.
3. Abuse of female child and illegitimate child starts even before birth, female Feticide is a very common form of abuse and is widely prevailing in India.
4. Everyday large numbers of children are abused in the sphere of their own family and abandoned by their own parents and in-loco-parentis.
5. Abuse by beating, burning and sexually exploiting is very common among parents.
6. Illiteracy, backward social condition and poor economic conditions are the most common reason of all kinds of child right violations.
7. Children are also used for immoral purposes, such as selling them to big gangsters, indulging them for the supply of narcotic drugs and other prohibited substances.
8. A large number of children are engaged in child pornography, and child prostitution is widespread and is closely linked to the systematic promotion of tourism.
9. Because of poverty, large number of children are suffering, from malnutrition, ill health and are dying.
10. Crimes of kidnapping and abduction are very common in our country. Children are kidnapped for the purpose of making them beggars, prostitutes, selling them to circuses, entertainment, organ trade, eating their flesh etc.

OBJECTIVES OF STUDY

1. To examine the conceptual framework of child rights & child welfare, its historical aspects, government policy and programmes, legislative & judicial trends
2. To analyse the implementation aspects of child laws and their proper evaluation.
3. To examines the various child rights in India and protection issues relating to children.


5. To examines the lacunae, drawbacks, & anomalies in the existing provision of present law and how to remove all defects.

6. To examine efforts made at national & international level with their rate of success.

7. To examine and critically evaluated all its dimensions & then remedies can be suggested.

**RESEARCH HYPOTHESIS**

This study is done after formulating the following main hypothesis.

1. Due to lack of any statutory provision under any law regarding uniformity of the age of Child is giving birth to exploitation of children.

2. Exploitation of a child is basically due to socio-economic problem and therefore legislation alone cannot check it.

3. Lack of education and awareness among children and parents about the amenities, facilities and welfare programs for which they are entitled to, under various enactment within India and at International level.

4. In spite of the fact that there are sufficient safeguards and multiple legislation, the problem of child neglect, exploitation, abuse, injustice and the civil and political rights available to a child seems to be inadequate for want of efficient execution of these legislation.

5. That with the increase in technology the means for the exploitation of children has also increased.

6. That despite judicial aliveness the children problem has remained the same because of restraints on it.
7. Lukewarm attitude of the executives, in implementing the various schemes, policies, statues and legislations for the benefit of children, in general.

8. Contractors always emphasis more on gain and this ultimately affect the betterment and welfare of their worker including child labour.

9. With the development of industrial and urban culture, family structure has been reduced as a result of which children started getting less attention within a family relation.

SCOPE OF THE STUDY

This research offers an authoritative, integrated, and chronologically organized perspective on problems of child and adolescent development and the legal response to these problems unique to the field today. With its distinctive and effective combination of updated statistics, applications readability and knowledge, the research helps to understand and appreciate the processes by which today’s social scientific study of child development taking shape. This research has been updated in various aspects like various statistics have been updated and include the recent legislatives provisions made at the national and international level till today, and the most important was the inclusion of various new pronouncements made by the Supreme Courts and High Courts in India till today.

SIGNIFICANCE OF STUDY

As the children are the highly vulnerable section of the society they need special care, protection and assistance. The study emphasize on the various related fields where children require care and assistance. The child rights is derived from a set of human values and ethical premises that recognize the inherent dignity and inalienable of all members of the human family. Accordingly, study emphasize that the rights shall be extended to all children without any kind of discrimination, irrespective of the child's his or her parents or legal guardian's race, nationality, colour, sex, language, religion, political or other opinion, social origin, property, disability, birth or other status. The study also draws particular attention to the fact that children living in exceptionally difficult circumstances in all countries of the world and for that such child need special protection and consideration. It advocates measures for the protection and harmonious development of the child that are
consistent with the tradition and cultural value of different peoples. The research work will show how the various policies on child are helpful in bringing social progress and how far these policies are effective.

**RESEARCH METHODOLOGY**

1. The methodology of research is mainly doctrinal and partly on survey conducted by researcher. The nature of work is both analytical and descriptive.
2. It is not possible to study purely by experimental method. So, both primary and secondary sources are used in present study.
3. The internet had a substantial effect to research work, without which the research would have been much more difficult. All sources of information, digital or otherwise, have been cited in footnotes to the main text and these may serve as useful tools to guide those desiring to undertake in depth research in any of the areas that the work contains.
4. The analysis and interpretation of data is inferring causal relations.
5. The Research work is an outcome of so many different factors. Looking the pathetic condition of social justice to children and the status and implementation of various child laws and acts for the purpose have compelled me to find out that whether any welfare is being done to children or it is only myth.

**SCHEDULE OF WORK**

The Present Research has been presented systematically by dividing into Eight Chapters detailed as under:-

1. **Introduction:-** This part deals with the Introduction to the topic, it contains problem coverage of whole thesis, its magnitude and basic framework governing the given thesis
2. **Historical Perspective and Development of Child Rights in India:**- In this part researcher deals with Historical Perspective of child rights and child welfare in India. It traces the historical development of child rights in international scenario and adopted in national scenario. The role of United Nations convention on Rights of Child, World summit for Children,
International Labour Organization (ILO), United Nations Children Fund (UNICEF) and South Asian Association for Regional Cooperation (SARRC) has been explained. Various steps taken by Indian Government at National, State and District level are also part of this chapter.


4. **Statutory Provision in India for Child Rights Protection:** In this part researcher deals with Legislative Aspects relating to children for their welfare both as a concept and its practices has been deep historical roots in our country. The major welfare Legislative reveals that there are various central & state enactments which protect the interest of children while some of them were enacted specifically for the welfare of children. It also includes provisions under the constitution of India for the protection and welfare of children in India especially in part III which deals with “Fundamental Rights” which are called the “conscience of the Constitution” and Part IV which deals with “Directive Principles of State Policy” governs the body of our country. Various protection laws at international and national level dealing with these problems have been discussed.

5. **International Concern for Protecting Child Rights:** In this part researcher deals with International Framework to combat the problems, issues relating to children to protect the rights of children.

6. **Role of Judiciary in Protection of Child Rights: The Trends and Responses:** Researcher in this part deals Judicial Trends on child issues and development, under this various decisions of Apex court on children rights are discussed in detail. Apex court of India said that- “If there is no proper growth of children of today; the future of the country will be dark.”
7. **Role of Government in Protection of Child Rights:** This part deals with the Millennium Declaration at International level. The commitments by India to achieve the millennium declaration goals by Five Year Plans, various policies, programmes, and schemes etc. has been explained in detail.

8. **Conclusion and Suggestions:** The last part concludes by summarizing the whole context, finding lacunae, drawbacks and anomalies in the existing provisions of present Law and added some certain substantial suggestions to remove all lacunae, defects & anomalies existed in the present law.